



Eugene City Council

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www.eugene-or.gov

EUGENE CITY COUNCIL AGENDA

June 27, 2016

5:30 p.m. CITY COUNCIL WORK SESSION

Harris Hall

125 East 8th Avenue

Eugene, Oregon 97401

7:30 p.m. CITY COUNCIL MEETING

Harris Hall

125 East 8th Avenue

Eugene, Oregon 97401

**Meeting of June 27, 2016;
Her Honor Mayor Kitty Piercy Presiding**

Councilors

George Brown, President

Pat Farr, Vice President

Mike Clark

George Poling

Chris Pryor

Claire Syrett

Betty Taylor

Alan Zelenka

CITY COUNCIL WORK SESSION

Harris Hall

5:30 p.m.

A.

WORK SESSION:

Residential Food Waste Collection Pilot

**6:15 p.m. B. WORK SESSION:
Continued Work on the Climate Recovery Ordinance**

**MEETING OF THE EUGENE CITY COUNCIL and URBAN RENEWAL AGENCY
Harris Hall**

1. PUBLIC FORUM

2. CONSENT CALENDAR

(Note: Time permitting, action on the Consent Calendar may be taken at the 5:30 p.m. work session.)

A. Approval of City Council Minutes

B. Approval of Tentative Working Agenda

C. A Resolution Approving a Low-Income Rental Housing Property Tax Exemption for River Road Apartments, Located at 1689-1695 River Road, Eugene, Oregon (NEDCO/Applicant)

**3. PUBLIC HEARING:
Recommendation on Metro Plan Amendments – Brenelaine Investments**

**4. PUBLIC HEARING and ACTION:
Resolution Adopting a Supplemental Budget; Making Appropriations for the City of Eugene for the Fiscal Year Beginning July 1, 2015 and Ending June 30, 2016**

**5. PUBLIC HEARING and ACTION:
A Resolution Adopting the Budget, Making Appropriations, Determining, Levying and Categorizing the Annual Ad Valorem Property Tax Levy for the City of Eugene for the Fiscal Year Beginning July 1, 2016 and Ending June 30, 2017; a Resolution Electing to Receive State Revenue Sharing Funds Pursuant to Section 221.770 of Oregon Revised Statutes; and a Resolution Certifying that the City of Eugene Provides the Municipal Services Required by Oregon Revised Statutes Section 221.760 in Order to Receive State Shared Revenues**

**6. PUBLIC HEARING and ACTION:
A Resolution of the Urban Renewal Agency of the City of Eugene Adopting the Budget, Making Appropriations, and Declaring the Amount of Tax to be Certified for the Fiscal Year Beginning July 1, 2016 and Ending June 30, 2017**

**time approximate*

The Eugene City Council welcomes your interest in these agenda items. This meeting location is wheelchair-accessible. For the hearing impaired, FM assistive-listening devices are available or an interpreter can be provided with 48 hours' notice prior to the meeting. Spanish-language interpretation will also be provided with 48 hours' notice. To arrange for these services, contact the receptionist at 541-682-5010. City Council meetings are telecast live on Metro Television, Comcast channel 21, and rebroadcast later in the week.

City Council meetings and work sessions are broadcast live on the City's Web site. In addition to the live broadcasts, an indexed archive of past City Council webcasts is also available. To access past and present meeting webcasts, locate the links at the bottom of the City's main Web page (www.eugene-or.gov).

El Consejo de la Ciudad de Eugene aprecia su interés en estos asuntos de la agenda. El sitio de la reunión tiene acceso para sillas de ruedas. Hay accesorios disponibles para personas con afecciones del oído, o se les puede proveer un interprete avisando con 48 horas de anticipación. También se provee el servicio de interpretes en idioma español avisando con 48 horas de anticipación. Para reservar estos servicios llame a la recepcionista al 541-682-5010. Todas las reuniones del consejo estan gravados en vivo en Metro Television, canal 21 de Comcast y despues en la semana se pasan de nuevo.

For more information, contact the Council Coordinator at 541-682-5010,

EUGENE CITY COUNCIL

AGENDA ITEM SUMMARY



Work Session: Residential Food Waste Collection Pilot

Meeting Date: June 27, 2016
 Department: Planning and Development
www.eugene-or.gov

Agenda Item Number: A
 Staff Contact: Michael Wisth
 Contact Telephone Number: 541-682-6835

ISSUE STATEMENT

This council work session is an opportunity to learn more about the upcoming Residential Food Waste Collection Pilot Program in Eugene.

BACKGROUND

The City of Eugene produces 40 million pounds of food waste every year. About half of this waste comes from commercial businesses, and the other half comes from residences. Each ton of food waste recovered from the landfill prevents approximately one ton of greenhouse gas emissions from being released into the atmosphere. To meet statewide organic waste reduction targets, as well as goals addressed in the City's Climate Recovery Ordinance, it is essential for the City to provide innovative sustainability options to residents. Therefore, the Waste Prevention and Green Building program (WPGB) will build upon the existing commercial food waste collection program Love Food Not Waste (LFNW) in the following ways:

1. *Residential pilot program: Expand the LFNW program to include residents; increase the amount and quality of food waste recovered in Eugene using a yard debris collection system.*
2. *Food waste prevention program: Target the community-at-large in an outreach effort to educate Eugene residents about the importance of food waste prevention and reduction.*

As part of statewide initiatives to reduce and prevent organic waste in Oregon's waste stream, WPGB will launch a pilot food waste collection program for residents. Residents in the identified pilot areas will receive every-other-week curbside collection service for food waste mixed with yard debris from single-family homes. Additionally, WPGB will provide a community-wide food waste prevention education campaign that coincides with the proposed curbside collection pilot project. Prevention education is currently underway, and the food waste collection pilot roll-out is expected to begin in fall of 2016.

NEXT STEPS

Based on the success of LFNW and the stated community need, WPGB plans to move forward with necessary steps for a successful residential pilot and food waste prevention education program.

WPGB will spend the coming months finalizing the communication and outreach effort to educate pilot participants, while finalizing a monitoring plan to assess contamination levels throughout the duration of the pilot. Staff will begin communication with the pilot participants in mid- to late-July.

RELATED CITY POLICIES

The City of Eugene regulates licensed garbage and recycling hauling activities within the city limits. These activities are guided by Oregon Revised Statutes (ORS) as well as the Eugene City Code. In particular, ORS 459a outlines the “Opportunity to Recycle” for all Oregonians and sets a baseline for counties’ and their affiliated municipalities’ garbage diversion rates. The Lane County goal is to achieve 63 percent diversion on an annual basis by 2020. Outside of this statewide policy, waste reduction and diversion is included as an action item within Eugene’s Climate and Energy Action Plan and the City’s Climate Recovery Ordinance.

COUNCIL OPTIONS

This is an informational work session.

CITY MANAGER’S RECOMMENDATION

None required at this time.

SUGGESTED MOTION

None required at this time.

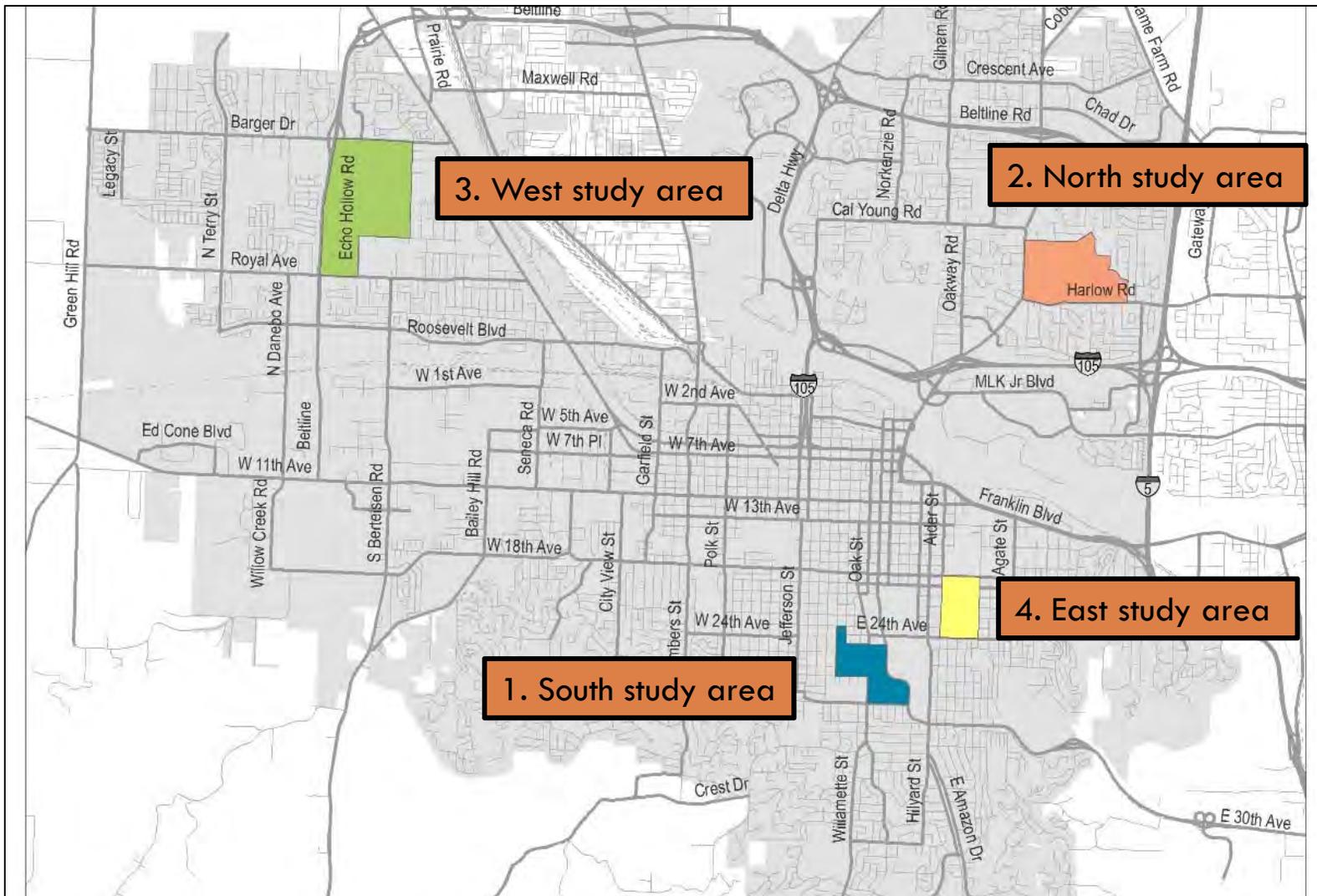
ATTACHMENTS

- A. Pilot boundaries
- B. Timeline

FOR MORE INFORMATION

Staff Contact: Michael Wisth
Telephone: 541-682-6835
Staff E-Mail: Michael.C.Wisth@ci.eugene.or.us

Appendix A: Pilot Boundaries



Appendix B: Timeline

- September 2016: South pilot area begins
- December 2016: North pilot area begins
- March 2017: West pilot area begins
- June 2017: East pilot area begins



EUGENE CITY COUNCIL

AGENDA ITEM SUMMARY



Work Session: Continued Work on the Climate Recovery Ordinance

Meeting Date: June 27, 2016
 Department: Central Services
www.eugene-or.gov

Agenda Item Number: B
 Staff Contact: Ethan Nelson
 Contact Telephone Number: 541-682-5245

ISSUE STATEMENT

The purpose of this work session is to provide the council a continued update on the Climate Recovery Ordinance (CRO) and to carry out council direction requesting the City Manager to propose motions as discussed at the May 18, 2016, work session. The first of two motions is to adopt bench marks and targets related to fossil fuel usage and carbon neutrality in City operations. The second is to adopt a motion related to the parts per million green house gas target identified in the CRO.

BACKGROUND

The Climate Recovery Ordinance was adopted by the council in July 2014, and:

- 1) Sets the following goals:
 - a. By 2020, all City facilities and operations will be carbon neutral.
 - b. By 2030, the City organization will reduce fossil fuel use by 50 percent from 2010 levels.
 - c. By 2030, community-wide fossil fuel use will be reduced by 50 percent from 2010 levels.

- 2) Directs for the following actions to take place:
 - a. Complete an assessment of current efforts to reach goals. Including assessing energy use in City facilities and operations, and progress on the community-wide Climate and Energy Action Plan and the internal Climate Action Plan.
*Presented an update to the council at February 23, 2015 Work Session. No Action Taken.
 Presented an update to the council at May 18, 2016 Work Session. Council requested motions for adoption of Targets and Benchmarks (Item b in this section) and numerical greenhouse gas goal (Item c in this section) for June 27, 2016 meeting.*

 - b. The City Manager to propose to the council for adoption the numerical targets and benchmarks to reach the adopted climate goals.
Presented to the council at November 23, 2015 Work Session. No Action Taken.

- c. The City Manager to propose to the council for adoption, a numerical community-wide goal or “carbon budget” for greenhouse gas emission reductions consistent with achieving 350 parts per million of CO2 in the atmosphere by the year 2100.
Presented to the council at December 16, 2015, February 10, 22, and 24, 2016, Work Sessions. No Action Taken.
- d. The City Manager shall adopt administrative rules that establish a specified baseline amount and appropriate greenhouse gas inventory methodology.
Administrative rules will be drafted upon council action regarding targets, benchmarks, and numerical carbon budget goal.
- e. When presenting options for council consideration, a triple bottom line (TBL) assessment of the options including a cost-benefit analysis.
A TBL analysis was presented within the November 23, 2015 Targets and Benchmarks Analysis.

CURRENT ITEM

Council passed the following motion at a May 18, 2016 work session:

Direct the City Manager to develop a motion for City Council action at the June 27, 2016, City Council meeting:

- a) that adopts the proposed targets and benchmarks (proposed by staff at the November 23, 2015, council meeting) that meets two short-term goals of carbon neutrality for City operations by 2020, and 50 percent reduction in community-wide fossil fuel use by 2030; and
- b) adopts a long-term, community-wide goal of achieving 350 parts per million of CO2 in the atmosphere by 2100.

Regarding this motion, the following targets and benchmarks are proposed.

Goal	Target (in GHGs)	Benchmark
Carbon neutral operations	60% reduction from 2010 levels by 2020	Annual: 15% reduction per year 5 year: 60% reduction by 2020
Reduce fossil fuels 50%	50% reduction from 2010 levels by 2030.	Annual: 2.5% reduction per year By 2020: 25% reduction from 2010 By 2025: 38% reduction from 2010 By 2030: 50% reduction from 2010

In addition to the motions proposed to follow this direction, staff is also recommending a motion for work to be performed to further explore options for achieving the target consistent with 350 ppm. Bringing back options will help clarify, for the council and the public, the impacts and potential implementation efforts needed to achieve this target.

SUGGESTED MOTIONS

1. Move to adopt the provided near-term targets and benchmarks to implement the goals set forth in the Climate Recovery Ordinance to achieve carbon neutrality for City operations by 2020 and 50 percent reduction in community-wide fossil fuel use by 2030.

2. Move to adopt, as the City of Eugene's community-wide greenhouse gas goal, a community-wide greenhouse gas emissions level that is equivalent to Eugene's proportionate share of a global atmospheric greenhouse gas level of 350ppm by 2100.
3. Move to direct the City Manager to bring back to the City Council, implementation options, timeline, and associated community impacts, including a cost-benefit analysis, for achieving the reductions required to meet the goal of 350ppm by 2100.

COUNCIL OPTIONS

1. Adopt the suggested motion.
2. Adopt the suggested motion with amendments.
3. Craft a new motion for adoption.
4. Take no action.

ATTACHMENTS

- A. Climate Recovery Ordinance

FOR MORE INFORMATION

Staff Contact: Ethan Nelson
Telephone: (541) 682-5245
Staff E-Mail: ethan.a.nelson@ci.eugene.or.us



COUNCIL ORDINANCE NO. 20540

COUNCIL BILL 5124

**AN ORDINANCE CONCERNING CLIMATE RECOVERY
AND ADDING SECTIONS 6.675, 6.680, 6.685, AND 6.690
TO THE EUGENE CODE, 1971.**

ADOPTED: July 28, 2014

SIGNED: July 29, 2014

PASSED: 6:2

REJECTED:

OPPOSED: Clark, Poling

ABSENT:

EFFECTIVE: August 29, 2014



ORDINANCE NO. 20540

AN ORDINANCE CONCERNING CLIMATE RECOVERY AND ADDING SECTIONS 6.675, 6.680, 6.685, AND 6.690 TO THE EUGENE CODE, 1971.

THE CITY OF EUGENE DOES ORDAIN AS FOLLOWS:

Section 1. Sections 6.675, 6.680, 6.685, and 6.690 of the Eugene Code, 1971, are added to provide as follows:

6.675 **Climate Recovery – Climate Action Goals.** The city shall carry out the requirements of sections 6.680 through 6.690 of this code in order to achieve the following goals:

- (1) By the year 2020, all city-owned facilities and city operations shall be carbon neutral, either by reducing greenhouse gas emissions to zero, or, if necessary, by funding of verifiable local greenhouse gas reduction projects and programs or the purchase of verifiable carbon offsets for any remaining greenhouse gas emissions.
- (2) By the year 2030, the city organization shall reduce its use of fossil fuels by 50% compared to 2010 usage.
- (3) By the year 2030, all businesses, individuals and others living or working in the city collectively shall reduce the total (not per capita) use of fossil fuels by 50% compared to 2010 usage.

6.680 **Climate Recovery – Assessment.** Within six months of ____ [*effective date of this ordinance*], the city manager or the manager's designee shall complete an assessment of current efforts to reach the climate action goals. The assessment shall include a review and analysis of the following:

- (1) Trends in current energy use for the community and for city operations and facilities; and
- (2) Progress in implementing the community climate and energy action plan and the internal climate action plan.

6.685 **Climate Recovery – Targets & Benchmarks.** To reach the climate action goals, the city council shall establish numerical targets and benchmarks, and take other actions that the council determines are necessary, for achieving the required reductions through the following steps:

- (1) Within 12 months of ____ [*effective date of this ordinance*], the city manager shall propose for adoption by the city council the following targets and benchmarks:

- (a) Numerical greenhouse gas and fossil fuel reduction targets equivalent to achieving the related goals; and
 - (b) Two-year and five-year benchmarks for reaching the numerical targets.
- (2) The city manager shall propose for adoption by the city council, a numerical community-wide goal or “carbon budget” for greenhouse gas emission reductions consistent with achieving 350 parts per million of CO₂ in the atmosphere by the year 2100. The community-wide goal shall include numerical targets and associated benchmarks.
 - (3) The city manager shall adopt administrative rules pursuant to section 2.019 of this code that establish a specified baseline amount and appropriate greenhouse gas inventory methodology.
 - (4) When the city manager prepares options for council consideration pursuant to this section, including options for meeting the goals, the manager shall include a triple bottom line assessment of the options including a cost-benefit analysis.

6.690 **Climate Recovery – Reporting.** Following council adoption of the numerical targets and benchmarks, the city manager shall report to the city council on progress in reaching adopted climate action goals as follows:

- (1) Provide a progress report every two years.
- (2) Provide a comprehensive report every five years that includes an assessment of greenhouse gas emission reductions to date and the status in reaching the established targets and benchmarks. If the five-year comprehensive report indicates that the city is not reaching the adopted targets and benchmarks, the city manager or the manager’s designee shall:
 - (a) Conduct an analysis of possible actions to get back on track to achieve the next adopted benchmark, together with a triple bottom line analysis of those options.
 - (b) Develop for council consideration potential revisions to the plan that reflect the necessary actions to achieve the next adopted benchmark.
- (3) Update the community climate and energy action plan and the internal climate action plan every five years, which shall be based on the updated greenhouse gas inventory.

Section 2. The City Recorder, at the request of, or with the consent of the City Attorney, is authorized to administratively correct any reference errors contained herein,

or in other provisions of the Eugene Code, 1971, to the provisions added, amended or repealed herein.

Passed by the City Council this

28th day of July, 2014

Beth Forrest
City Recorder

Approved by the Mayor this

29 day of July, 2014

Kitty Percy
Mayor

EUGENE CITY COUNCIL

AGENDA ITEM SUMMARY



Public Forum

Meeting Date: June 27, 2016
Department: City Manager's Office
www.eugene-or.gov

Agenda Item Number: 1
Staff Contact: Beth Forrest
Contact Telephone Number: 541-682-5882

ISSUE STATEMENT

This segment allows citizens the opportunity to express opinions and provide information to the council. Testimony presented during the Public Forum should be on City-related issues and should not address items which have already been heard by a Hearings Official, or are on the present agenda as a public hearing item.

SUGGESTED MOTION

No action is required; this is an informational item only.

FOR MORE INFORMATION

Staff Contact: Beth Forrest
Telephone: 541-682-5882
Staff E-Mail: beth.l.forrest@ci.eugene.or.us

EUGENE CITY COUNCIL

AGENDA ITEM SUMMARY



Approval of City Council Minutes

Meeting Date: June 27, 2016
Department: City Manager's Office
www.eugene-or.gov

Agenda Item Number: 2A
Staff Contact: Kris Bloch
Contact Telephone Number: 541-682-8497

ISSUE STATEMENT

This is a routine item to approve City Council minutes.

SUGGESTED MOTION

Move to approve the minutes of the June 8, 2016, Work Session.

ATTACHMENTS

A. June 8, 2016, Work Session

FOR MORE INFORMATION

Staff Contact: Kris Bloch
Telephone: 541-682-8497
Staff E-Mail: kris.d.bloch@ci.eugene.or.us

ATTACHMENT A

MINUTES

**Eugene City Council
Harris Hall, 125 East 8th Avenue
Eugene, Oregon 97401**

**June 8, 2016
12:00 p.m.**

Councilors Present: George Brown, Betty Taylor, Alan Zelenka, George Poling, Mike Clark, Claire Syrett, Chris Pryor

Councilors Absent: Greg Evans

Councilor Zelenka opened the June 8, 2016, meeting of the Eugene City Council and noted that Mayor Piercy was not able to attend.

A. ACTION: West Eugene Enterprise Zone & E-Commerce Zone Re-Designation

Community Development Manager Denny Braud led the council in a discussion on the West Eugene Enterprise Zone & E-Commerce Zone Re-Designation resolutions and updates to the local public benefit criteria.

Council discussion:

- Council should consider adding climate change criteria to the enterprise zone application process.
- Councilor Clark declared a potential conflict of interest.
- The list of applicants that apply to serve on the public benefit criteria committee should be provided to the council.
- The entire city is affected by forgoing of taxes; this is not a good deal.

MOTION AND VOTE: Councilor Taylor, seconded by Councilor Poling, moved to adopt Resolution 5155, a resolution authorizing the City Manager to make application to the State of Oregon for re-designation of a West Eugene Enterprise Zone.

PASSED 6:1, Councilor Taylor opposed.

MOTION AND VOTE: Councilor Taylor, seconded by Councilor Poling, moved to adopt Resolution 5156, a resolution of Eugene requesting that the West Eugene Enterprise Zone be re-designated for electronic commerce. **PASSED 6:1**, Councilor Taylor opposed.

MOTION AND VOTE: Councilor Taylor, seconded by Councilor Poling, moved to direct the City Manager to move forward with a process to review the local WEEZ Public Benefit Criteria consistent with the City/County committee process used in 2005 and outlined in Attachment D, and bring back recommendations for updating the criteria following the committee's review. **PASSED 7:0**.

Councilor Zelenka adjourned the meeting of the Eugene City Council and convened a meeting of the Eugene Urban Renewal Agency.

B. URBAN RENEWAL AGENCY EXECUTIVE SESSION: Pursuant to ORS 192.660(2)(e)

The Urban Renewal Agency met in executive session pursuant to ORS 192.660(2)(e)

Councilor Zelenka adjourned the meeting of the Eugene Urban Renewal Agency and reconvened a meeting of the Eugene City Council.

C. STORMWATER USER FEE INCREASE

MOTION AND VOTE: Councilor Brown, seconded by Councilor Taylor, moved to review the Stormwater user fees increase before the rate changes take effect.

PASSED 6:1, Councilor Pryor opposed.

Council discussion:

- Metropolitan Wastewater Management Commissions recommended a three percent increase; seven percent is too high.
- More discussion to understand the reasons for the rate increase is needed.

The meeting adjourned at 12:49 p.m.

Respectfully submitted,

Chuck Crockett
Deputy City Recorder

EUGENE CITY COUNCIL

AGENDA ITEM SUMMARY



Adoption of a Resolution Approving a Low-Income Rental Housing Property Tax Exemption for River Road Apartments, Located at 1689- 1695 River Road, Eugene, Oregon (NEDCO/Applicant)

Meeting Date: June 27, 2016
Department: Planning and Development
www.eugene-or.gov

Agenda Item Number: 2C
Staff Contact: Ellen Meyi-Galloway
Contact Telephone Number: 541-682-5532

ISSUE STATEMENT

The City Council is asked to approve a resolution for a 20-year Low-Income Rental Housing Property Tax Exemption (LIRHPTE) for River Road Apartments, located at 1689-1695 River Road. The developer of the project is Neighborhood Economic Development Corporation (NEDCO). NEDCO has an option agreement to purchase the property. The property would be rental housing targeted to low-income persons living with HIV/AIDS.

BACKGROUND

The City of Eugene utilizes federal and local subsidies to facilitate the development of housing affordable to low-income persons. The City issues a Housing Request for Proposals to identify proposed developments. The council may award land, federal HOME Investment Partnerships funds, Systems Development Charge exemptions, and property tax exemptions to selected development proposals. These local resources are combined with state and federal subsidies in order to achieve rents affordable to low-income persons.

Summary of the LIRHPTE program

The City adopted the low-income rental housing property tax exemption program in 1990. Since then, Eugene has approved tax exemptions for 28 developments with over 1,200 units. In 2011, the council unanimously approved extending the 20-year LIRHPTE program for an additional 10 years. The approved ordinance also enables recipients to reapply for the 20-year LIRHPTE after the initial 20-year period has expired.

The council reviews each tax exemption request on a case-by-case basis. Most recently, the council approved a LIRHPTE for Delta Court on Hunsaker Lane in July 2015. If an application meets the substantive criteria [EC 9.239(3)(a)-(i)] as referenced in the Report and Recommendation (Attachment A), the City must grant the exemption by resolution (Attachment B). A decision to deny the exemption cannot be made by simple motion or inaction; it would need to be made by a resolution (Attachment C) that explains how the applicant has failed to demonstrate that the tax exemption is in the public interest.

Summary of requested tax exemption for River Road Apartments

The requested tax exemption is for River Road Apartments, a proposed four-unit affordable housing project that will provide rental housing to very-low and low-income households. The proposed project was submitted through the 2016 Housing Request for Proposals. In addition to the LIRHPTE, NEDCO requested \$440,971 in federal HOME Investment Partnership funds. The City Council approved the use of HOME funds to acquire the property April 25, 2016, and the HOME Consortium Governing Board awarded HOME funds to the project May 2, 2016. The agency anticipates receiving an Umpqua Bank loan for \$142,236. If the LIRHPTE is approved, the acquisition is scheduled to occur in August 2016, and the minor rehabilitation would be completed by the end of the year.

The acquisition and rehabilitation of three, two-bedroom and one one-bedroom apartments, located at 1689-1695 River Road (Attachment D) is proposed to be rental housing targeted to persons living with HIV/AIDS. NEDCO will work with HIV Alliance to identify residents and provide services. NEDCO proposes designating all four units for households earning less than 50 percent of area median income (AMI). Initial rents are proposed to be \$425-\$572 depending on unit size.

The units are currently occupied. It is expected that most of the residents would be income-eligible to remain in the units after NEDCO acquired the property. Over-income residents would be provided relocation assistance and housing placement counseling under the federal Uniform Relocation Act requirements at the time of acquisition. As the existing residents choose to move away, they would be replaced with persons living with HIV/AIDS.

The requested exemption meets the substantive criteria [EC 9.239(3)(a)-(i)] as shown in the Report and Recommendation (Attachment A).

RELATED CITY POLICIES

In addition to the Eugene-Springfield 2015 Consolidated Plan, the proposed projects also advance goals established in other local plans and policies. These include the Residential Land Use and Housing Element of the Metropolitan Area General Plan, Eugene City Council Adopted Growth Management Policies, the Diversity and Equity Strategic Plan, the Lane County Ten Year Plan to End Chronic Homelessness, Housing Dispersal Policy, and the Lane County Continuum of Care Plan. The proposed uses of funds also specifically support affordable housing goals set forth in the Envision Eugene pillars.

Approving the property tax exemption application for River Road Apartments supports the Envision Eugene pillar of providing housing affordable to all income levels. The Envision Eugene Housing Affordability pillar includes strategies to meet the growing and changing housing needs of Eugene residents by supporting subsidized affordable housing projects. Continuing to provide property tax exemptions to low-income rental housing developments has been identified as an action to help successfully implement this strategy.

COUNCIL OPTIONS

1. Approve the tax exemption.
2. Deny the tax exemption.

CITY MANAGER'S RECOMMENDATION

The City Manager recommends option 1, approve Resolution **XXXXXX** granting a 20-year low-income rental housing property tax exemption for the property located at 1689-1695 River Road, Eugene, Oregon (Assessor's Property Account Number 1591609) if NEDCO becomes the owner of the property.

SUGGESTED MOTION

Move to adopt Resolution **XXXXXXXX** approving the resolution granting a 20-year low-income rental housing property tax exemption for the property located at 1689-1695 River Road, Eugene, Oregon (Assessor's Property Account Number 1591609) if NEDCO becomes the owner of the property.

ATTACHMENTS

- A. Report and Recommendation
- B. Resolution to approve the tax exemption
- C. Resolution to deny the tax exemption
- D. Maps of the proposed site

FOR MORE INFORMATION

Staff Contact: Ellen Meyi-Galloway
Telephone: 541-682-5532
Staff E-Mail: Ellen.E.Meyi-Galloway@ci.eugene.or.us

ATTACHMENT A

**REPORT AND RECOMMENDATION
of the Community Development Manager
of the Planning and Development Department**

**Application of Neighborhood Economic Development Corporation
For Low Income Rental Housing Property Tax Exemption
(Section 2.937 to 2.940 of the Eugene Code, 1971)
for Property at 1689-1695 River Road, Eugene, Oregon**

The Community Development Manager of the Planning and Development Department of the City of Eugene finds that:

1. Neighborhood Economic Development Corporation (NEDCO) has an option to purchase real property located at **1689-1695 River Road**, Eugene, Oregon, 97404 (Assessor's Map 17-04-13-32; Tax Lot Number 7100; Assessor's Property Account Number 1591609). NEDCO ("the applicant"), located at 212 Main Street, Springfield, Oregon, 97477, has submitted an application pursuant to Subsection 2.939(3) of the Eugene Code, 1971, for an exemption from ad valorem taxes under the City's Low-Income Rental Housing Property Tax Exemption Program (Sections 2.937 to 2.940 of the Eugene Code, 1971).

2. I have reviewed the application and find that the applicant has submitted all materials, fees and documents required by the application, and is in compliance with the provisions of EC 2.939(3). Specifically I find:

- (a) The property, or portion thereof subject to the property tax exemption, will be occupied solely as a residence for low-income persons.
- (b) The applicant's application was filed prior to January 1, 2020.
- (c) The property is being purchased by a nonprofit corporation organized in a manner that meets the criteria for a public benefit corporation as described under ORS 65.001(35).
- (d) The property is being purchased by a nonprofit corporation that expends no more than ten percent of its annual income from residential rentals for purposes other than acquisition, maintenance or repair of residential rental property for low-income persons, or for the provision of on-site child care services for the residents of the rental property.
- (e) The applicant has complied with the policies set forth in the Standards and Guidelines for Low-Income Rental Housing Property Tax Exemption adopted by council Resolution No. 5028.
- (f) The proposed development is consistent with the city's housing dispersal policy.
- (g) The proposed development does not cause the displacement of low-income persons.
- (h) The proposed development does not cause destruction of historic properties.

- (j) The applicant has executed, and agrees to maintain in effect for the duration of the tax exemption period, a Rent Regulatory Agreement.
- (k) The applicant has consented in writing that for the duration of the tax exemption period, the city may inspect the property for which the exemption is granted.

3. Comments have been solicited from interested City departments, 4J School District, and the affected neighborhood groups. No comments have been received.

Therefore, based on the above findings, the proposed project conforms with all applicable City Code provisions, local plans, planning regulations, the Envision Eugene Plan, and the criteria set forth in the City's adopted Standards and Guidelines for Low-Income Rental Housing Property Tax Exemption, and I recommend that the application be approved.

Dated this 9 day of June, 2016.

Print: Denny Braud Sign: 
 Community Development Manager of the Planning and Development Department

RESOLUTION NO. _____

A RESOLUTION APPROVING A LOW-INCOME RENTAL HOUSING PROPERTY TAX EXEMPTION FOR THE PROPERTY LOCATED AT 1689, 1691, 1693, AND 1695 RIVER ROAD, EUGENE, OREGON. (Neighborhood Economic Development Corporation (NEDCO) / Applicant.)

The City Council of the City of Eugene finds that:

A. Neighborhood Economic Development Corporation (“NEDCO”) has entered into a Residential Real Estate Sale Agreement to purchase real property located at 1689, 1691, 1693, and 1695 River Road, Eugene, Oregon, 97404 (Assessor’s Map 17-04-13-32, Tax Lot Number 7100; Assessor’s Property Account Number 1591609) owned by Koss-Khawaja Family Trust, whose address is 5308 Southwood Drive, Lake Oswego, Oregon 97035. NEDCO, located at 212 Main Street, Springfield, Oregon, 97477, has submitted an application pursuant to Subsection 2.939(3) of the Eugene Code, 1971, for an exemption from ad valorem taxes under the City’s Low-Income Rental Housing Property Tax Exemption Program (Sections 2.937 to 2.940 of the Eugene Code, 1971).

B. The tax exemption is being sought for four residential units currently existing on the property, all of which will be used for low-income housing, and residential common areas. The units will undergo rehabilitation.

C. The Community Development Manager of the Planning and Development Department, as designee of the City Manager, has prepared a Report and Recommendation recommending that the application be approved and the exemption granted. In making that recommendation, the Community Development Manager found that the applicant submitted all materials, documents and fees required by the application and Section 2.938(1) of the Eugene Code, 1971, and is in compliance with the policies set forth in the Standards and Guidelines adopted by Resolution No. 5028. In addition, the Community Development Manager found that the applicant has complied with the criteria for approval provided in Section 2.939(3) of the Eugene Code, 1971.

NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EUGENE, a Municipal Corporation of the State of Oregon, as follows:

Section 1. Based upon the above findings, the City Council approves NEDCO’s application for an ad valorem property tax exemption under the City’s Low-Income Rental Housing Property Tax Exemption Program for the property located at 1689, 1691, 1693, and 1695 River Road, Eugene, Oregon, 97404 (Assessor’s Map 17-04-13-32, Tax Lot Number 7100; Assessor’s Property Account Number 1591609), which will consist of four residential units and residential common areas. All units shall be offered for rent to persons whose earnings fall at or below 50% of the Area Median Income based on their family size.

Section 2. Subject to the condition precedent set forth in Section 3 of this Resolution, the land and units described in Section 1 above are declared exempt from local ad valorem property taxation commencing July 1, 2017, and continuing for a continuous period of twenty (20) years unless earlier terminated in accordance with the provisions of Section 2.940 of the Eugene Code, 1971, which provides for termination after an opportunity to be heard if:

2.1 Construction or development of the exempt property differs from the construction or development described in the application for exemption, or was not completed by January 1, 2020, and no extensions or exceptions were granted; or

2.2 The applicant fails to comply with provisions of ORS 307.515 to 307.523, provisions of the Eugene Code, 1971, the Standards and Guidelines adopted by Council Resolution No. 5028, or any conditions imposed in this Resolution.

The tax exemption shall be terminated immediately, without right of notice or appeal, pursuant to the provisions of ORS 307.531 in the event that the county assessor determines that a change of use to other than that allowed has occurred for the housing unit, or portion thereof, or, if after the date of this approval, a declaration as defined in ORS 100.005 is presented to the county assessor or tax collector for approval under ORS 100.110.

Section 3. The tax exemption shall not take effect unless or until closing occurs on the purchase of the property by NEDCO.

Section 4. The City Manager, or the Manager's designee, is requested to forward a copy of this Resolution to the applicant within ten days from the date of adoption of this Resolution, and to cause a copy of this Resolution to be filed with the Lane County Assessor on or before April 1, 2017. The copy of the Resolution sent to the applicant shall be accompanied by a notice explaining the grounds for possible termination of the exemption prior to the end of the exemption period and the effects of the termination.

Section 5. This Resolution shall become effective immediately upon its adoption.

The foregoing Resolution adopted the ____ day of _____, 2016.

City Recorder

RESOLUTION NO. _____

A RESOLUTION DENYING A LOW-INCOME RENTAL HOUSING PROPERTY TAX EXEMPTION FOR THE PROPERTY LOCATED AT 1689, 1691, 1693, AND 1695 RIVER ROAD, EUGENE, OREGON. (Neighborhood Economic Development Corporation (NEDCO) / Applicant.)

The City Council of the City of Eugene finds that:

A. Neighborhood Economic Development Corporation (“NEDCO”) has entered into a Residential Real Estate Sale Agreement to purchase real property located at 1689, 1691, 1693, and 1695 River Road, Eugene, Oregon, 97404 (Assessor’s Map 17-04-13-32, Tax Lot Number 7100; Assessor’s Property Account Number 1591609) owned by Koss-Khawaja Family Trust, whose address is 5308 Southwood Drive, Lake Oswego, Oregon 97035. NEDCO, located at 212 Main Street, Springfield, Oregon, 97477, has submitted an application pursuant to Subsection 2.939(3) of the Eugene Code, 1971, for an exemption from ad valorem taxes under the City's Low-Income Rental Housing Property Tax Exemption Program (Sections 2.937 to 2.940 of the Eugene Code, 1971).

B. The tax exemption is being sought for four residential units currently existing on the property, all of which will be used for low-income housing, and residential common areas. The units will undergo rehabilitation.

C. The Community Development Manager of the Planning and Development Department, as designee of the City Manager, has prepared a Report and Recommendation recommending that the application be approved and the exemption granted. In making that recommendation, the Community Development Manager found that the applicant submitted all materials, documents and fees required by the application and Section 2.938(1) of the Eugene Code, 1971, and is in compliance with the policies set forth in the Standards and Guidelines adopted by Resolution No. 5028. In addition, the Community Development Manager found that the applicant has complied with the criteria for approval provided in Section 2.939(3) of the Eugene Code, 1971.

NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EUGENE, a Municipal Corporation of the State of Oregon, as follows:

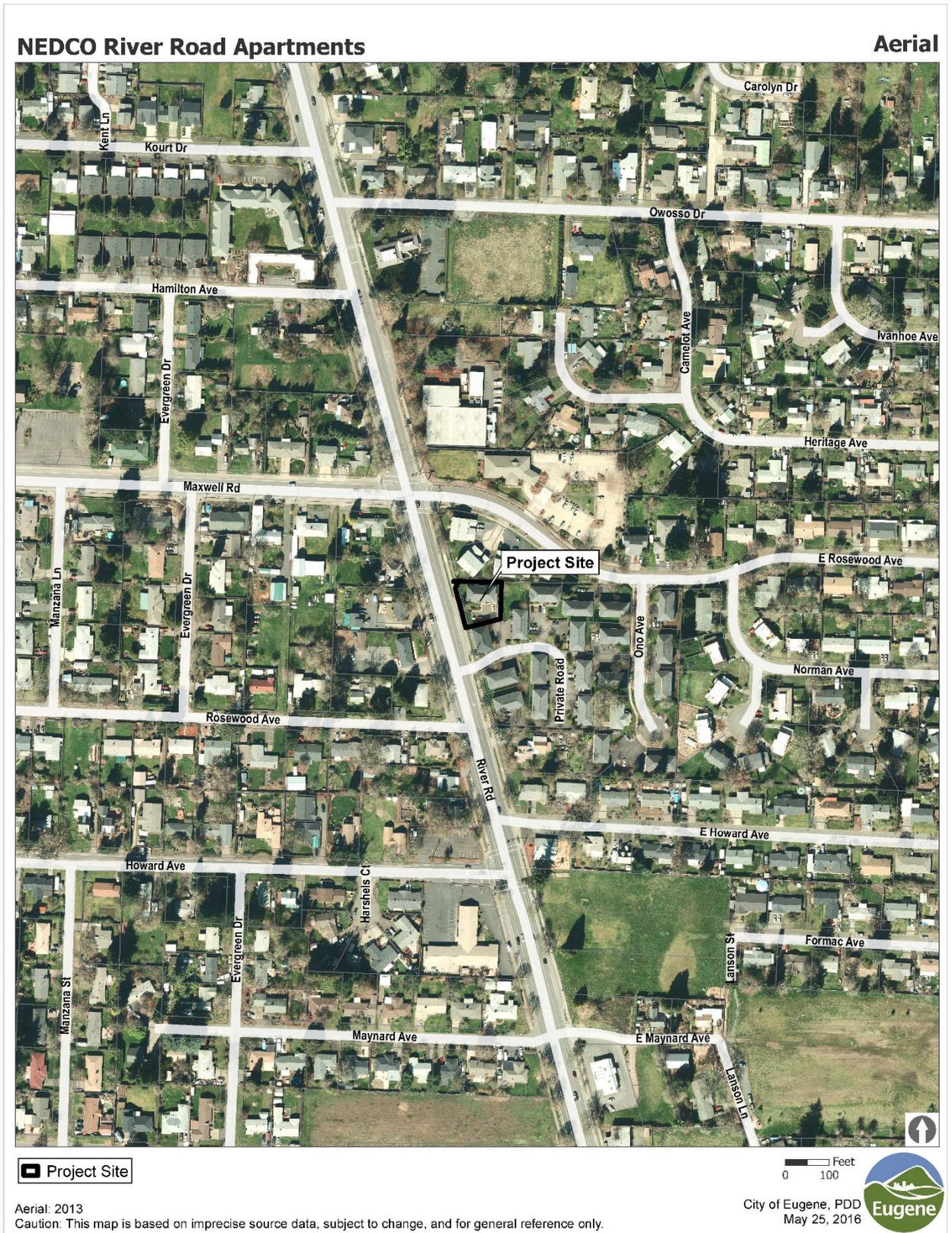
Section 1. Notwithstanding the findings in the Community Development Manager’s Report and Recommendation, the City Council denies NEDCO’s application for an ad valorem property tax exemption under the City's Low-Income Rental Housing Property Tax Exemption Program for the property located at 1689, 1691, 1693, and 1695 River Road, Eugene, Oregon, 97404 (Assessor’s Map 17-04-13-32, Tax Lot Number 7100; Assessor’s Property Account Number 1591609) because the applicant has failed to demonstrate that it is qualified for the tax exemption.

Section 2. The City Manager, or the Manager's designee, is requested to forward a copy of this Resolution to the applicant within ten days from the date of adoption of this Resolution, along with a notice informing the applicant of the right to appeal in the manner set forth in ORS 34.010 to 34.100.

Section 3. This Resolution shall become effective immediately upon its adoption.

The foregoing Resolution adopted the ____ day of _____, 2016.

City Recorder





EUGENE CITY COUNCIL

AGENDA ITEM SUMMARY



Public Hearing: Metro Plan Amendment, Refinement Plan Amendment, Zone Change and Code Amendment for Brenelaine Investments (City files: MA 15-3, RA 15-2, Z 15-7 and CA 16-1)

Meeting Date: June 27, 2016
 Department: Planning and Development
www.eugene-or.gov

Agenda Item Number: 3
 Staff Contact: Zach Galloway
 Contact Telephone Number: 541-682-5485

ISSUE STATEMENT

The City Council will hold a public hearing to consider a privately-initiated, site specific Metro Plan diagram amendment, refinement plan diagram and policy text amendments, zone change and code amendment. The amendments would result in a change to the plan designation from Commercial to Medium Density Residential with a concurrent zone change from GO General Office to R-2 Medium Density Residential. The Planning Commission recommended denial of the proposal based on lack of compliance with Statewide Planning Goal 9 due to the expiration of the City's Commercial Land Study, details of which are described below and outlined in a City Attorney's Office memo.

BACKGROUND

The subject property consists of two tax lots (17-04-14-32-8600 and -8900) located in the River Road community near the intersection of Maxwell Road, Maxwell Connector, North Park Avenue, and the Northwest Expressway (see Attachment A).

As addressed in the applicant's materials, the property owner seeks to change the Metro Plan diagram land use designation (the City's land use blueprint map), the River Road/Santa Clara Urban Facilities Plan and zoning of 7.19 acres of the 8.75 acre subject property to be designated Medium Density Residential the corresponding R-2 Medium Density Residential zone. These applications are briefly summarized below:

- **Metro Plan Amendment:** Proposes to amend the Metro Plan Diagram to change the adopted land use plan designation from Commercial to Medium Density Residential for 7.19 acres of the subject property. The remaining portion of the property would remain designated Commercial.
- **Refinement Plan Amendments:** Proposes to amend the River Road-Santa Clara Urban Facilities Plan to change the land use designation from Commercial to Medium Density Residential for 7.19 acres of the subject property and amends a policy to enable the land use designation change. The remaining portion of the property would remain

designated Commercial.

- **Zone Change:** Proposes to rezone 7.19 acres of the subject property from GO General Office zone to R-2 Medium Density Residential, consistent with the proposed plan amendments. The existing C-1 Neighborhood Commercial zone on the northern portion of the property and the existing /WR Water Resources Conservation and /SR Site Review overlay zones are not affected by the proposed zone change.
- **Code Amendment:** Proposes to amend the land use code to codify the policy amendment to the River Road-Santa Clara Urban Facilities Plan.

Planning Commission Process

At the Planning Commission public hearing held on April 12, 2016, a total of two people testified; one provided testimony in favor (an applicant representative) and one provided opposition testimony. Following the public hearing, the record was not left open.

Prior to the public hearing, Oregon Department of Land Conservation and Development (DLCD) submitted testimony regarding the proposal's reliance on the City's adopted, yet expired, Commercial Lands Inventory (which indicates a surplus of commercial land within Eugene's urban growth boundary) to remove 7.19 acres of commercial land for medium density residential use (see Attachment B). DLCD asserts that the City cannot rely on the Commercial Lands Study because the planning horizon for the study ended in 2010, and as such, the proposal cannot be found to comply with Statewide Planning Goal 9 (Economic Development). The City Attorney's Office addressed this issue at the hearing, and was asked to provide additional information for the Planning Commission to consider during deliberations. The City Attorney's Office provided a memo to the Planning Commission addressing this issue (see Attachment C).

The Planning Commission deliberated on April 15, 2016. The majority of the commission's discussion centered on the issue of the expired Commercial Lands Study. As addressed by the City Attorney, there is a legal precedent set by the Land Use Board of Appeals (LUBA) that precludes the applicant's ability to fulfill planning Statewide Planning Goal 9 and prevents approval of the applicant's requested amendments when a city's land inventory is expired. Based on the legal precedent, the commission reached a unanimous (6-0) decision to recommend the City Council deny the proposed amendments.

Additionally, the deliberations raised issues that the Planning Commission felt warranted acknowledgement in their recommendation to the council. The Planning Commission had specific concerns about the following items:

- Re-designating land, and the subsequent rezoning from GO to R-2, would have potential impacts on the abutting C-2 property to the north by removing the intended transitional GO zone;
- There would be an impact to development on commercial land because height limits and setbacks would be reduced due to the adjacent R-2 residential zone. These are standards not invoked between Commercial zoning districts, as is the current arrangement of GO General Office and C-2 Community Commercial; and

- There are potential unknown economic impacts on the overall employment and commercial land inventory, which is a strong reason to move forward with Envision Eugene adoption, which will update the expired inventories.

The council will also consider additional public testimony and other materials that may be presented at the public hearing, before making a final decision. Final action is scheduled for a subsequent council meeting on July 11, 2016.

These land use applications are subject to quasi-judicial procedures for the upcoming public hearing, as well as the approval criteria from the Eugene Code (EC) for each application type. For reference, the quasi-judicial hearing procedures applicable to this request are described at EC 9.7065 through EC 9.7095. The applicant's written statement addresses the approval criteria from EC 9.7735 for the Metro Plan amendment, EC 9.8424 for the refinement plan amendments, EC 9.8865 for the zone change and EC 9.8065 for the code amendment. The full record of application materials and public testimony to date is included in a binder that has been placed in the council office, for reference.

RELATED CITY POLICIES

The Metro Plan and the River Road-Santa Clara Urban Facilities Plan are the applicable adopted plans most relevant to this request.

COUNCIL OPTIONS

This item is for public hearing only. No action is required at this time.

CITY MANAGER'S RECOMMENDATION

The City Manager will provide a recommendation for the council meeting scheduled on July 11, 2016.

ATTACHMENTS

- A. Vicinity Map
- B. Public Testimony received as part of Planning Commission proceedings
- C. Memo to Planning Commission from City Attorney's Office

A complete set of record materials have also been provided to the City Council under separate cover, and are available for review in a binder located at the City Council Office.

FOR MORE INFORMATION

Staff Contact: Zach Galloway, AICP, Senior Planner

Telephone: 541.682.5485

Staff E-Mail: zach.a.galloway@ci.eugene.or.us.

Item 3.



**Brenelaine Inv. (MA 15-3/ RA 15-2/ Z 15-7/ CA 16-1)
17-04-14-32/08600, 08900**



 Subject properties



GALLOWAY Zach A

From: Moore, Ed W <ed.w.moore@state.or.us>
Sent: Monday, February 22, 2016 9:59 AM
To: GALLOWAY Zach A
Cc: MOORE Ed (OR); Howard, Gordon; Hogue, Thomas
Subject: RE: MA 15-3, RA 15-2, Z 15-7

Follow Up Flag: Follow up
Flag Status: Flagged

Zach,

The department has completed its review of the above referenced plan and zone amendments for a site-specific Metro Plan change from Commercial to Medium Density Residential, with concurrent Refinement Plan change from Commercial to Medium Density Residential designation and complementary text amendment to one policy and a zone change from GO General Office to R-2 Medium Density Residential. Beginning on page 22 of the application, the applicant addresses statewide planning goal 9. In their finding they assert that the 1992 Eugene Commercial land Study found that the city had a surplus of 170 acres of commercial land. On the surface it would appear that the proposed plan and zone amendment would be inconsequential to the city's overall commercial land supply.

However, the department is concerned that the applicant is relying on a study that is over 23 years old that had a planning horizon of 2010. In approving a plan/zone amendment to change land from employment use (commercial or industrial) to a non-employment designation that is more than 2 acres, OAR 660-009-0010(4) which states:

For a post-acknowledgement plan amendment under OAR chapter 660, division 18, that changes the plan designation of land in excess of two acres within an existing urban growth boundary from an industrial use designation to a non-industrial use designation, or an other employment use designation to any other use designation, a city or county must address all applicable planning requirements, and:

- (a) Demonstrate that the proposed amendment is consistent with its most recent economic opportunities analysis and the parts of its acknowledged comprehensive plan which address the requirements of this division; or
- (b) Amend its comprehensive plan to incorporate the proposed amendment, consistent with the requirements of this division; or
- (c) Adopt a combination of the above, consistent with the requirements of this division.

The issue here for the city in approving this application is the age of Eugene Commercial Lands Study and whether it meets the requirement of an Economic Opportunities Analysis (EOA) as set forth in 660-009-0015. Consequently, if approved, the decision would be susceptible to appeal. The applicant and the city would be well served to delay any action on this request until the city has adopted Envision Eugene and its supporting documents, one of which is the Eugene Comprehensive Land Assessment that meets the requirement for an EOA.

Please feel free to contact me should you have any questions. Please enter this e-mail into the record of all proceedings.

Respectfully,

Ed

Ed Moore, AICP | Regional Representative
Community Services Division | Dept. Land Conservation and Development | South Valley Regional Solution Center @ U of O
17 15 E. Franklin Blvd, Rm 221 | Eugene, OR 97403-1983
Voice: 971.239.9453 | Skype: ed.moore.dlcd
ed.w.moore@state.or.us | www.oregon.gov/LCD/

The urban forms that societies have produced through time, including our own, can be seen as records of distinct value systems; what does your city say about you?

Be GREEN; keep it on the screen. 

I, Holly C. Hartmann, submit the following regarding the pending land use action for Brenelaine Inv (City MA 15-3, RA 15-2, and Z 15-7).

Action Request: I request denial of the proposed actions based on the proposal not meeting the approval criteria of EC 9.7735: 1, 2 ~~or 3~~.

Note: All page numbers refer to the page number of the online PDF document at: <http://pdd.eugene-or.gov/LandUse/DocumentDetails?file=Z-15-0007&id=1408188> not the page numbers within the application.

Rationale for Request: The application for the proposed amendments to the Metro Plan, refinement plan, and zoning do not meet the criteria provided in EC 9.7735.

The information about housing represented under Goal 10 Housing is incomplete and misrepresents the situation. The Land Supply and Capacity Update of 2012 incorporated land use development from 2009-2012. Instead, they reference a 1997 draft document (referred to as the Draft Site Inventory on p. 19). Further, they acknowledge on p.22 that existing inventories show that there is not a shortage of MDR capacity, in contrast to their claims. On p. 29, the applicants refer to information from the Envision Eugene process related to commercial land, yet they completely ignore the Envision Eugene information and emerging policy direction related to housing. Recurring references to there being "no vacant residential of this size" have no importance; infill development is expected to occur on smaller parcels.

This proposal does not meet the Statewide Planning Goal 11. They pitch this proposal as providing "relatively affordable" single family structures, not affordable housing. The applicant states that the neighborhood association opposes multi-family use of the site. I disagree with the stated neighborhood association view. There is nothing wrong with providing multi-family housing on the General Office or commercial portion of this land that would be in character with the nearby multi-family development near Walnut Park (such as the Turtle Park Apartments and neighboring duplexes), and would better meet all policies addressed in this proposal. Only the applicant's desire for unconstrained development and lack of vision stand in the way of meeting Goal 11 under the current designations.

Unified commercial development encourages quality development like we have seen in other parts of town, rather than piecemeal, low-end strip mall development. The applicant's evaluation of the site reflects outdated planning perspectives, focusing on auto-centric access for the commercial development. Their argument on p.29 is nonsense; it is equivalent to saying vacant lots that don't currently have houses on them are unsuited for housing development.

The proposal is inconsistent with Metro Plan policy A.13 because it reduces opportunities for mixed use development by reducing the diversity of land use classifications, eliminating the general office designation. The material presented on p. 34 related to policy A.13 does not address the impact of the increased residential density on existing neighborhoods. The text,

SCANNED

using obfuscating incorrect grammar, simply says that the development will consider the impact of higher residential density, without actually addressing the impact at all.

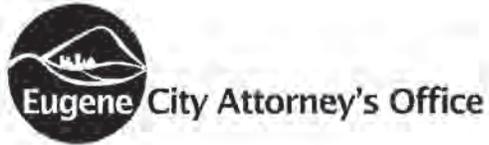
This proposal is also inconsistent with Metro Plan policies A.17 and A.20. The information stated in the application under Metro Plan policies A.17 and A. 20 are simply incorrect in the evaluation of the availability of MDR capacity in the River Road-Santa Clara area, and this project's role in providing affordable housing. The proposal mentions Envision Eugene related to commercial land, but not in relation to housing, such as the Updated 2012 Land Supply and Capacity Maps. This proposal acknowledges the housing stock will only be "relatively affordable" and disregards the affordability and desirability of well-planned attached housing, including the ability attached housing to provide home ownership.

The application is inconsistent with the Metro Plan that focuses on the use of transitional zoning to buffer commercial and residential development. The current General Office designation provides the transitional use that is part of the Metro Plan. The applicant acknowledges the need for transitional use, on pp.24-25, to screen the view of the existing commercial development from the low density houses that they, themselves, were responsible for developing. They are searching for a quick fix to a problem of their own making – they built speculative LDR stock, buyers don't want to look at the back of the existing commercial development, and they can't come up with a General Office development that fits their development timeline or community vision.

The material under section D, beginning pp.39, is simply a restatement of misleading and incomplete material. This proposal does not increase the diversity or affordability of housing stock in the River Road area; it only increases the diversity of development potential on this parcel, and in a direction that reduces affordability. I disagree with nearly every point in the application assertions that there have been changes in circumstances in a substantial manner that not anticipated at the time the refinement plan was adopted. Their application does not make the case needed to comply with approval criteria (2).

The proposal, as submitted, should be denied. Any further review should explicitly address the most recent housing and commercial land inventories undertaken as part of the Envision Eugene process, as well as principles and policies developed under that process.

The applicant bought land with a zoning for which they are ill-suited to develop on the timetable of current market forces. They built neighboring speculation housing stock for buyers that prefer a different landscape than currently exists, and they seek unconstrained development that will block that view. The applicant is free to develop under the General Office designation or to sell the parcel to others that have greater capacity and community vision. The current land designations are capable of increasing housing stock, increasing metropolitan and subregion diversity of housing stock, increasing affordability of housing stock, and doing all that while better maintaining the character of the neighborhood and the transition between housing and commercial development.



Memorandum

Date: April 20, 2016
To: Planning Commission
From: Anne C. Davies
Subject: Brenelaine Investments LLC (MA 15-3)

Background

This memorandum addresses the proposal by Brenelaine Investments, LLC to amend the Metro Plan designation for approximately 7 acres from Commercial to Medium Density Residential (MDR). One of the applicable criteria that must be addressed in a Metro Plan amendment of this kind is EC 9.7735(1): "The proposed amendment is consistent with the relevant Statewide Planning Goals."

Statewide Planning Goal 9 (Economic Development) is intended to ensure that there is an adequate supply of sites of suitable size, type, and location for anticipated industrial and commercial development. The proposed findings address Goal 9 and conclude that the proposed Brenelaine amendment is consistent with Goal 9. That conclusion is based on the adopted Commercial Lands Study (CLS), which is the City's acknowledged "economic opportunities analysis" with regard to the supply of commercial lands.

Ed Moore, with the Department of Land Conservation and Development, asserts that the City cannot rely on the CLS because the planning horizon for the study ended in 2010, approximately six years ago. He warns that an approval based on the existing CLS could be subject to appeal on that basis and recommends that any action on this application be delayed until the City's new economic opportunity analysis is adopted as part of the Envision Eugene package.

Analysis

Mr. Moore bases his comment on the administrative rule that implements Goal 9, OAR 660-009-0010(4). It provides:

"For a post-acknowledgement plan amendment under OAR chapter 660, division 18, that changes the plan designation of land in excess of two acres within an existing urban growth boundary from an industrial use designation to a non-industrial use designation, or another employment use designation to any other use designation, a city or county must address all applicable planning requirements, and:

Planning Commission
 April 20, 2016
 Page 2

- (a) Demonstrate that the proposed amendment is consistent with *its most recent economic opportunities analysis* and the parts of its acknowledged comprehensive plan which address the requirements of this division; or
- (b) Amend its comprehensive plan to incorporate the proposed amendment, consistent with the requirements of this division; or
- (c) Adopt a combination of the above, consistent with the requirements of this division.”

For purposes of subsection (a), the City’s “most recent economic opportunities analysis” refers to the commercial lands analysis that has been formally adopted and acknowledged as part of the Metro Plan – the CLS. The caselaw is clear that a city must make its land use decisions based on the acknowledged comprehensive plan. This means that when a city makes a decision that requires findings demonstrating compliance with Goal 9, such as the proposed plan amendment in this case, the Goal 9 findings must be based on a commercial lands inventory that is formally adopted and part of the acknowledged comprehensive plan.

There are no Court of Appeals cases that deal with the situation where an adopted, acknowledged buildable lands inventory has expired (*i.e.*, the planning horizon used for determining future need for commercial lands has passed). There is a LUBA case, however, that holds that “any local government that has a housing inventory with a housing needs projection that uses a planning period that has already passed is essentially operating without a useable housing needs analysis.” *Lengkeek v. City of Tangent (Lengkeek II)*. (The *Lengkeek* cases dealt with Statewide Planning Goal 10, which requires an adequate supply of land for residential, not commercial, needs. That said, the analysis in *Lengkeek* would apply equally to Goal 9 and commercial and industrial land inventories.) LUBA does suggest that, in certain circumstances (*i.e.*, where the acknowledged inventory itself anticipates and provides a methodology for updating the land inventory beyond the planning horizon), a city could potentially continue business as usual beyond the expiration of a lands inventory. The City of Tangent did not have that type of inventory, however. And the CLS is not that type of inventory, either.

Accordingly, under *Lengkeek*, DLCD is correct that “where a comprehensive plan is amended in a way that relies on an updated [Buildable Lands Inventory] BLI, that updated BLI must be incorporated into the city’s comprehensive plan.” *Lengkeek III*. In short, the City and applicant cannot rely on the expired Commercial Lands Study.

Before reviewing the options available to the Commission, it is worth discussing Commissioner Nicoletto’s question regarding a possible *de facto* moratorium. Commissioner Nicoletto asked whether a recommendation to deny the application based on the expired CLS would violate ORS 197.524(1)(b). The statute provides that if a city has a “pattern or practice of delaying or stopping the issuance of permits” for division of land or construction, it must adopt a moratorium following the required procedures for doing so. In addressing the moratorium issue in *Lengkeek*, LUBA acknowledged that a city is caught between a rock and a hard place in

Planning Commission

April 20, 2016

Page 3

situations like this. On the one hand, a city risks violation of Goal 9 if it approves a comprehensive plan amendment based on an expired commercial lands inventory. On the other hand, it risks violating the moratorium statute if it denies the application because there is no useable acknowledged inventory. The solution provided by LUBA was to allow the applicant to apply concurrently to have the inventory updated. That solution is an option for the applicant in this case; however, as explained below, the current Envision Eugene information would not support approval of this request. That is, if the applicant were to attempt to seek to update the commercial lands inventory concurrently with its application, removal of the 7 acres of commercially designated land would likely violate Goal 9 because there is a deficit of commercial land.

Possible Actions

In reviewing a Metro Plan amendment, the Planning Commission only makes a recommendation to the City Council. The recommendation must contain “findings and conclusions on whether the proposal or a modified proposal meets the approval criteria.” It is the City Council that then must approve, modify and approve, or deny the proposed amendment based on the Planning Commission’s recommendation. A recommendation of approval would require findings that the proposal is consistent with Statewide Planning Goal 9, and a recommendation of denial would require findings that the proposal is not consistent with Goal 9.

OPTION #1: Recommend approval of the application. Under the expired Commercial Lands Study, there is a surplus of commercial land, and removal of the 7+ acres of commercially designated land would not leave the City with a deficit. The risk in recommending approval on this basis is that DLCD could appeal the approval as a violation of Goal 9 under the reasoning in *Lengkeek*.

OPTION #2: Recommend denial of the application. The information provided by the applicant is based on the Commercial Lands Study, which is expired. The studies conducted as part of Envision Eugene demonstrate a deficit of both MDR and commercial lands. Accordingly, if the studies were adopted as the acknowledged commercial lands inventory, the applicant would not likely be able to demonstrate compliance with Goal 9; *i.e.*, an applicant cannot remove 7 acres of commercially designated land from an inventory that already has a deficit of such lands. Further, the denial of this one application based on the expiration of the Commercial Lands Study would not constitute a *de facto* moratorium.

OPTION #3: Delay action until the Envision Eugene inventory studies are adopted and acknowledged. Mr. Moore proposes that the City delay action on the application. The City, however, is not authorized to delay action against the applicant’s wishes. That said, the applicant could choose to put the application on hold pending the Envision Eugene adoption process.

ACD:abm

Attachments: *Lengkeek* cases

Page 1

MONDALEE LENGKEEK, MERVIN "BILL" LENGKEEK, JAMES M. LONG, STEPHEN P. NOFZIGER, JOANNE McLENNAN, ARLEN SAMARD and EILEEN SAMARD, Petitioners,

v.

CITY OF TANGENT, Respondent, and MELVIN BRUSH, Intervenor-Respondent.

LUBA No. 2004-164.

Oregon Land Use Board of Appeals.

October 12, 2005.

Appeal from City of Tangent.

Corinne C. Sherton, Salem, filed the petition for review and argued on behalf of petitioners.

With her on the brief was Johnson and Sherton, PC.

Anne Corcoran Briggs, Portland, filed the response brief and argued on behalf of respondent.

George B. Heilig, Corvallis, represented intervenor-respondent.

DAVIES, Board Chair; BASSHAM, Board Member; HOLSTUN, Board Member, participated in the decision.

REMANDED.

You are entitled to judicial review of this Order. Judicial review is governed by the provisions of ORS 197.850.

FINAL OPINION AND ORDER

Page 2

Opinion by Davies.

Header ends here.

NATURE OF THE DECISION



Petitioners challenge a city decision that (1) approves a comprehensive plan map amendment that adds 84.26 acres to the city's urban growth boundary (UGB) and redesignates the property from Agricultural to Residential, (2) adopts exceptions to Statewide Planning Goals 3 (Agricultural Lands) and 14 (Urbanization), (3) adopts a zoning map amendment from Exclusive Farm Use (EFU) to Low Density Residential (R-1), and (4) approves a partition.

FACTS

The subject property is an 84.26-acre parcel within the city limits of Tangent, lying west of agricultural land lying outside the city's UGB.¹ The subject property lies east of Highway 99 and the Union Pacific Railroad tracks, and north of Tangent Drive. To the west across the railroad tracks are mixed commercial/residential uses. To the north is the Tangent Business Park. In 2004, the applicant below (intervenor) submitted an application seeking the land use approvals listed above. Petitioners appeal the city council's adoption of Ordinance No. 2004-012, approving those requests.

FIRST ASSIGNMENT OF ERROR

The Tangent Zoning Ordinance (TZO) and Goal 14, Factors 1 and 2, require a demonstration of public need in order to amend the UGB and comprehensive plan map.² OAR

Page 3

660-004-0022(1)(a) provides that reasons exceptions to goal requirements may be based on a "demonstrated need for the proposed use or activity."³ Relying on a population projection of 1,581 for the year 2020 and on a housing study submitted by intervenor, the city concluded that there is a demonstrated public need to include 90 additional acres of residentially designated land within the Tangent UGB.

Petitioners' first assignment of error provides:

"The City's determination that there is a demonstrated public need to add the subject 84.26-acre parcel to the Tangent UGB, and to change the Plan Map designation of the parcel to Residential, is inconsistent with the population projection and buildable lands inventory in the acknowledged Tangent Comprehensive Plan.

ORS 197.835(9)(a)(D)." Petition for Review 5. As presented by petitioners, this assignment of error raises a Statewide Planning Goal 2 (Land Use Planning) consistency argument. Goal 2 provides:

Page 4

"To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.

"City, county, state and federal agency and special district plans and actions related to land use shall be consistent with the comprehensive plans of cities and counties and regional plans adopted under ORS Chapter 268."

Petitioners argue that the challenged decision is inconsistent with the Tangent Comprehensive Plan (TCP) in two ways. First, they argue that the city erred in relying on housing data provided by intervenor that is inconsistent with the buildable lands inventory in the acknowledged TCP. Second, petitioners argue that the city's conclusion that there is a demonstrated public need for more residential land within the UGB is based on a population projection that is inconsistent with the population projection found in the TCP.

A. Buildable Lands Inventory

Goal 10 (Housing) and its implementing administrative rules require local governments to inventory the buildable residential lands within their UGB's and to ensure that the supply of such buildable lands is adequate to meet the local government's anticipated housing needs. Goal 10; ORS 197.295-.314; OAR 660-008-0010. See also *Opus Development Corp. v. City of Eugene*, 28 Or LUBA 670, 694-95 (1995) (when adopting post-acknowledgment plan and zone map amendments affecting residentially designated land within an urban growth boundary, a local government must demonstrate that it continues to satisfy its Goal 10 obligation to maintain an adequate inventory of buildable lands). In addressing compliance with Goal 10, the challenged decision concludes that there is a demonstrated need to add 90 acres of residentially-designated land to the Tangent UGB.⁴ Petitioners first argue that that conclusion is inconsistent with the TCP,

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in violation of Goal 2. Petitioners state "no one can dispute" that the 2002 TCP includes a buildable lands inventory that finds a need for only 75 acres of residential land "during the planning period." Petition for Review 7.⁵

The TCP was originally acknowledged in 1985, and was updated during periodic review in 1988 or 1989.⁶ In 2002, the city's transportation system plan (TSP) was adopted and the TCP was concurrently revised to reflect its adoption. However, the city did not adopt a new, updated buildable lands inventory (BLI) at that time. It is clear from the ordinance revising the TCP in 2002 and the language in the 2002 TCP that the BLI, including the table set out in n 5, was not updated in 2002 when the TSP was adopted.⁷ Petitioners do not contend otherwise.⁸ Further, the BLI found in the 2002 TCP provides a planning period that ends, at the latest, in 2005.⁹ Thus, the BLI



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projects the needed residential lands only to the year 2005. Perhaps for this reason, intervenor conducted its own buildable lands analysis. That analysis concluded that there was a need for 90 additional acres of residential land within the UGB to the year 2020.

Petitioners argue that the city's reliance on this information provided by intervenor is inconsistent with the BLI found in the TCP, which identifies a small surplus (15 acres) of land through 2005. Petitioners rely on cases interpreting the Goal 2 consistency requirement in the Goal 10 context. We briefly summarize those cases before addressing petitioners' arguments.

In *D.S. Parklane Development, Inc. v. Metro*, 165 Or App 1, 994 P2d 1205 (2000), Metro had relied upon a 1996 draft document, instead of on a 1995 update of the acknowledged plan, to determine the amount of land needed in an urban reserve area. The petitioners in that case argued that Metro violated Goal 2 in doing so. The Court of Appeals summarized the Goal 2 issue as follows:

"the question is whether the land use action itself, *i.e.*, the determination of the amount of needed land, is consistent with and based upon the applicable plan and 'related implementation measures.' The objective of the goal is to make the planning process and planning documents the 'basis for all decisions and actions related to use of land.' (Emphasis added.) The draft report is not a plan or a planning document of the kind that Goal 2 contemplates. It is an informal study that, by its own terms, is not related to the designation of urban reserves and, by its own terms, is not even a 'final' document for the purposes at which it is directed. Under Goal 2, the computation of need must be based upon the functional plan and/or Metro's other applicable planning documents. Metro

may, of course, amend those documents in the manner prescribed by law, if it chooses, but it cannot simply subordinate them to an informal study that is concerned with a remotely related matter." *Id.* at 22.

We recently explained our understanding of that ruling as follows:

"The Court of Appeals held that, in that circumstance, Metro could not 'subordinate' applicable acknowledged planning documents to 'an informal study.' In other words, it could not choose to rely on an unacknowledged draft study over an inventory completed a year earlier that was part of the acknowledged plan, where the results of those two studies were clearly contradictory. Metro's determination was not consistent with the acknowledged plan in that case, in violation of Goal 2." *1000 Friends of Oregon v. City of Dundee*, ___ Or LUBA

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___ (LUBA Nos. 2004-144 and 2004-145, July 21, 2005), slip op 10, *rev pending*.

In *Craig Realty Group v. City of Woodburn*, 39 Or LUBA 384, 395 (2001), we held that the City of Woodburn was entitled to rely on the buildable lands inventory in its acknowledged comprehensive plan, although that inventory was outdated. We most recently addressed this Goal 2 issue in *1000 Friends of Oregon v. City of Dundee*. In that case, the City of Dundee's acknowledged comprehensive plan contained a 1988 buildable lands inventory that was 15 years old when the local decision in that case was issued. Approximately two years before the challenged decision, the city updated its inventory pursuant to a comprehensive plan policy that required periodic re-examination of developable lands. We held that the city's reliance on that updated inventory, although it was not incorporated into the comprehensive plan, did not render the city's findings demonstrating the sufficiency of its

residential land supply inconsistent with the comprehensive plan or its implementing measures. *1000 Friends of Oregon v. City of Dundee*, slip op 11. Petitioners argue that this case is more like *D.S. Parklane* and less like the *City of Dundee* case.

Another case cited by neither party, *Benchmark Enterprises v. City of Stayton*, 36 Or LUBA 433 (1999), is potentially relevant here. In that case, the city denied the petitioner's request for annexation and subdivision approval because the city's buildable lands inventory had not been updated. We remanded, holding that the city's denial of the annexation and subdivision proposals based on a "lack of current buildable lands data and housing needs data" constituted a *de facto* moratorium pursuant to the moratorium statutes. *See* ORS 197.524.¹⁰

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1. Goal 2 Consistency

Again, petitioners argue that the city's conclusion that there is a demonstrated need to add 90 acres of residential land is inconsistent with the acknowledged inventory that finds a need for only 75 acres of residential land. The Goal 2 consistency requirement, however, assumes that there is something for the land use action to be consistent with. In *D.S. Parklane*, for instance, the court held that the challenged decision in that case was inconsistent with the functional plan because the land use action relied on a study that was itself inconsistent with the inventory in the functional plan. For all intents and purposes, the TCP in this case does not contain a useable BLI because it provides information for a planning period that ends in 2004 or 2005. *Compare Craig Realty Group v. City of Woodburn*, 39 Or LUBA at 389 (no indication that the planning period that applied to the acknowledged inventory had expired, only that the city's housing inventory was outdated).

The information submitted by intervenor to demonstrate a public need for the amendment uses an entirely different planning period. That data uses the population projection discussed below and projects the residential land need to the year 2020. Because the acknowledged BLI does not contain any information regarding the need for residential lands that is relevant to the challenged decision, we disagree with petitioners that the challenged decision is inconsistent with the BLI in the city's acknowledged comprehensive plan.

2. Goal 2 "Required Information"

Although not presented as a separate assignment of error, petitioners also include a Goal 2 argument that relies on a different Goal 2 requirement. Petitioners argue that intervenor's housing analysis cannot provide the basis for the needs analysis. We understand petitioners to argue that Goal 2 requires that where a local government relies on an applicant's housing needs analysis, instead of the housing needs analysis provided in the comprehensive plan, that housing analysis must

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first be incorporated into the comprehensive plan.¹¹ Petition for Review 8-9. Petitioners explain their rationale as follows:

"If Goal 2 does not prohibit the City from relying on this applicant's BLI without incorporating it into the Plan, then there is nothing to prevent the City from relying on another, different BLI submitted by another applicant trying to get his property into the UGB or have its plan designation/zoning changed, in a subsequent quasi-judicial proceeding. Under these circumstances, the adopted, acknowledged plan would become meaningless." Petition for Review 9 n 6.

At oral argument, petitioners further argued that Goal 2 and Goal 1 (Citizen



Involvement) require an opportunity for the public to review information contained in the comprehensive plan, which includes the buildable lands inventory.¹² The process followed in this case, they argue, included only one joint public evidentiary hearing before the planning commission and city council.

As stated in *D.S. Parklane*, the intent of Goal 2 is to require that the comprehensive plan provide the basis for land use actions. *D.S. Parklane*, 165 Or App at 22. Specifically, Goal 2 provides that land use plans shall include "inventories and factual information for each applicable statewide planning goal."¹³ We understand petitioners' argument to be directed at this Goal 2

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language that requires inventories and certain information for each goal, Goal 10 in this instance, to be included in the comprehensive plan. We agree with petitioners that Goal 10, Goal 2 and Goal 1 require that certain necessary information in the inventory appear in the comprehensive plan. Without that information in the plan, a land use decision that implicates Goal 10 is not based on the comprehensive plan. Further, to allow an applicant to provide that data in a proceeding that does not and cannot lead to a conforming amendment to the comprehensive plan denies the public the opportunity to provide input that is required by Goal 1.

The administrative rule implementing Goal 10 further supports petitioners' position that the needs analysis must be incorporated into the comprehensive plan. OAR 660-008-0010 provides that the mix and density of needed housing is determined in the "housing needs projection."¹⁴ OAR 660-008-0005(5) requires that the "housing needs projection" be "justified in the plan." It provides:

"(5) 'Housing Needs Projection' refers to a local determination, *justified in the plan*, of the mix of housing types and densities that will be:

"(a) Commensurate with the financial capabilities of present and future area residents of all income levels during the planning period;

"(b) Consistent with any adopted regional housing standards, state statutes and Land Conservation and Development Commission administrative rules; and

"(c) Consistent with Goal 14 requirements." (Emphasis added).

The city in this case, and any local government that has a housing inventory with a housing needs projection that uses a planning period that has already passed, is essentially operating without a useable acknowledged housing needs analysis. If a local government were to deny an application

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because there is no applicable housing needs analysis in the comprehensive plan, however, it risks remand for the reasons we remanded in *Benchmark Enterprises*; *i.e.*, it could be enacting a *de facto* moratorium. On the other hand, if it relies on a housing study provided by the applicant without incorporating that analysis into its comprehensive plan, it risks violating Goal 2 for the reasons provided by petitioners.

Goal 10 requires local governments to inventory buildable lands, and Goal 2 requires that those inventories be part of the comprehensive plan. Where local governments do not have a useable inventory, they may rely on an applicant to provide that information. However, if they do so, the comprehensive plan must be amended concurrently to incorporate that inventory.¹⁵

In this case, the projection of housing need in the comprehensive plan only provides estimates to year 2005. As discussed above, Goal 10, Goal 2 and Goal 1 require that intervenor's buildable lands analysis, which is the only basis for determining public need for the proposed UGB expansion, be incorporated into the comprehensive plan.

B. Population Projection

The BLI in the city's acknowledged comprehensive plan includes a population projection of 1,000 for the year 2005. In 1999, Linn County adopted a year 2020 official population projection for the county and for the cities located within the county, including the City of Tangent. The county's estimated 2020 population for the City of Tangent was 1,581.¹⁶ In 2002, the city adopted its TSP, which was referred to and approved by the voters. The TSP, which was incorporated into the TCP, contains a reference to an estimated population that ranges from 1,684 to 2,010 for the year 2020. Record 518.

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Petitioners allege that the city used three separate methods in reaching its conclusion that there is a demonstrated need to add 90 acres of residentially-designated land to the Tangent UGB. According to petitioners, all three methods are based on a year 2020 population projection of 1,581. Petitioners allege that the TCP contains a projection of 1,000 by the year 2020 and that the projection the city relied upon is therefore inconsistent with the population projection in the acknowledged comprehensive plan.¹⁷

The city alleges that any TCP reference to a population projection of 1,000 population is to the year 2005, and that any reference to a 1,000 estimate as a projection for 2020, instead of for 2005, is a typographical error. We agree. Linn County's population projection, the population projection in the

TSP and all of the data included in the BLI support the city's explanation on this point.¹⁸ If petitioners are correct that the city did not adopt Linn County's population projection of 1,581, then the population projection adopted in the TSP provides the only population projection upon which the city could rely. That population projection range (1,684 – 2,010) is *higher* than the 1,581 population projection that the city relied upon in concluding the public need for 90 additional acres of residential land. Accordingly, if the city had used the TSP population projection, it would have concluded that it needed more, not less, residential land. In any event, the question petitioners seek to answer is whether the challenged decision is consistent with the TCP. Again, because the population projection in the acknowledged BLI only estimates population figures to 2005, the challenged decision, which relies upon data based on a population projection for 2020 and, in any event, which is lower than the population projection included in the TSP, is *not inconsistent* with the TCP.

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Although petitioners frame the question as whether the challenged decision is inconsistent with the comprehensive plan, they also appear to argue that the city failed to render a decision that was based on its comprehensive plan. For the same reasons discussed above, we agree with petitioners that Goal 2 requires that the population projection that forms the basis of the needs analysis be incorporated into the comprehensive plan.¹⁹ Accordingly, this subassignment of error is sustained.

Petitioners' first assignment of error is sustained in part.

SECOND ASSIGNMENT OF ERROR

Petitioners argue that the city's findings addressing certain Statewide Planning Goal 14 (Urbanization) considerations are



inadequate because they rely on tables and figures that are not incorporated into the decision. Consequently, it is impossible to determine, without the tables and figures, whether the findings demonstrate compliance with the applicable approval criteria.

The challenged decision refers to two figures and two tables in support of its Goal 14 findings. The tables and figures are part of the record. However, apparently as a result of an oversight involving a computer formatting problem, those tables and figures were not included, attached or incorporated as part of the final order. Petitioners argue that the challenged decision merely refers to the figures and tables "without indicating any intent to incorporate such documents by reference * * *," Petition for Review 11.

Petitioners are wrong, however, that the figures and tables are not incorporated by reference in the challenged findings. The findings state: "The information and analyses on pages 8 through 12 and Attachment A of the application are adopted as Findings of Fact by the City." Record 18. Attachment A includes intervenor's housing needs analysis, which in turn includes the tables and figures at issue. Accordingly, the tables and figures in fact were incorporated as findings

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of fact. We therefore agree with the city that although the tables and figures did not appear in the findings document itself, they were specifically adopted as findings. The findings are therefore adequate to demonstrate compliance with the criteria identified by petitioners, and the clerical error in omitting the tables and figures does not require remand.

Petitioners' second assignment of error is denied.

THIRD ASSIGNMENT OF ERROR

The uses proposed are low-density residential uses. OAR 660-004-0020(2)(d) requires a demonstration that the "proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts."²⁰ Petitioners argue that the city's findings are inadequate because they rely on development features, *i.e.*, a park and a landscaped trail, that are not required by the challenged decision.

In addressing OAR 660-004-0020(2)(d), the city found that the proposed low-density residential development will be compatible with adjacent residential and commercial uses.²¹

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Petitioners argue that while the challenged decision relies on the development of a park on the south part of the subject property and a landscaped perimeter trail on the west and north sides of the subject property, to support its conclusion regarding compatibility, the challenged decision does not require those features as conditions of approval. Petition for Review 12 (citing *Collins v. Klamath County*, 26 Or LUBA 434, 437 (1994) (where local government relies on particular features to assure compliance with approval standards, local government must "assure that there is an adequate reason to assume" that such features will be part of the authorized use)). The findings are therefore inadequate, petitioners assert.

The city concedes that the identified features are referenced, but argues, with regard to the park:

"the findings rely primarily on the fact that low density residential uses allowed in the R-1 zone will be compatible with the low density residential uses located to the south, rather than the existence of the park itself, to conclude that uses of the subject property will

be compatible with uses located on adjacent properties." Response Brief 13-14.

Although the park is mentioned in the findings, the city concluded that the proposed use, low-density residential, "will be completely compatible with existing [low-density] residential development to the south." That finding relies in no way upon the park. Rather, it simply takes the position that low-density residential uses are compatible with other low-density residential uses. Petitioners offer no reason to question that position.

The findings regarding compatibility with the adjacent commercial uses to the west and north, on the other hand, appear to rely primarily on the landscaped perimeter trail:

"The City finds that low density residential development will be compatible with existing planned uses to the west and north, due to the general compatibility of the types of uses *and the extensive separation and landscape buffering.*" Record 32 (emphasis added).

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We cannot say that the city would have arrived at the same conclusion regarding compatibility if the trail were not anticipated. We therefore agree with petitioners that the city's reliance on that feature to support its conclusion regarding compatibility requires that it be required as a condition of approval. On remand, the city must either (1) impose a condition of approval assuring that the perimeter trail will be required or (2) adopt findings clarifying that it does not rely on that feature as a basis for its conclusion that the proposed use will be compatible with uses on adjacent properties.

Petitioners' third assignment of error is denied in part and sustained in part.

FOURTH ASSIGNMENT OF ERROR



Petitioners argue that the challenged findings addressing Goal 14, factors 1 through 7, were not adopted as part of the TCP, as required by Goal 14.²²

The city responds:

"Ordinance 2004-012 includes text amendments to the TCP to incorporate 'Exhibit C' of the Final Order into the TCP by reference. Exhibit C includes findings addressing the seven Goal 14 factors. R. 11-24." Response Brief 14.

Ordinance No. 2004-012 provides, in pertinent part:

"The Comprehensive Plan Text of Tangent is Amended to include the Exceptions to

Statewide Planning Goals 3 and 14 as shown in Exhibit C." Record 3. Exhibit C includes the findings of fact supporting the challenged decision. Those findings include findings addressing the reasons justifying an exception to Goal 14. As part of justifying that

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exception, the city adopted findings addressing the seven Goal 14 factors.²³ Those findings were adopted as part of the TCP per the language in Ordinance 2004-012 quoted above, as required by Goal 14.

Petitioners' fourth assignment of error is denied.

FIFTH ASSIGNMENT OF ERROR

Petitioners challenge the city's findings demonstrating that the zone change complies with Goal 11 (Public Facilities and Services) and TCP Goal 11, Policy 1.²⁴

The challenged findings conclude that it is feasible for all public facilities to be made available prior to or concurrent with the proposed development. Record 41.²⁵

Petitioners argue, however, that the findings do not rely on a condition of approval, and that even if they did, the conditions of approval are not adequate to ensure that the capacity of the city's community sanitary sewer system will be adequate to serve the development of the subject property.²⁶ It appears to be

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undisputed that the city's sewer system does not currently have the capacity to serve the proposed development over the planning period.²⁷ Petitioners argue:

"First, it is not clear that the Conditions of Approval will be applicable to future development of the property, since they were not made a part of the City's land use regulations by Ordinance No. 2004-12. Under ORS 197.015(11) and 197.195(1) subdivisions within a UGB are 'limited land use decisions' that are subject only to standards in a city's land use regulations. Further, Condition 11 requires only that the applicant 'provide verification of adequate water and sanitary sewer capacity **on-site** to serve the proposed use.' (Emphasis added.) Beyond that, Condition 11 requires only that the applicant 'identify the capacity of the STEP system and treatment facilities **needed** to support the proposed development.' The conditions do not require a demonstration that the City STEP system has adequate treatment capacity to serve proposed development of the subject property." Petition for Review 15 n 12 (citations omitted; emphasis added by petitioners).

Petitioners appear to be arguing that where the city concludes that capacity is not currently available, but that it is feasible for all public facilities to be made available prior to or concurrent with the proposed development, the city must adopt a condition of approval that ensures that such public facilities will actually be available prior to the development. See *Rhyne v. Multnomah*

County, 23 Or LUBA 442, 447-48 (1992) (local government may find that it is feasible to comply with an approval criterion and impose conditions of approval to assure compliance with that criterion); *Paterson v. City of Bend*, ___ Or LUBA ___ (LUBA No. 2004-155, April 5, 2005), *rev'd and remanded on other grounds* ___ Or App ___ (August 31, 2005, slip op 4) ("Generally, where there is conflicting evidence regarding whether compliance with an approval criterion is feasible, the local government may determine that compliance is feasible and impose conditions of approval as

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necessary to ensure compliance."). We understand petitioners to argue that the city's findings are inadequate because the finding of feasibility does not rely on a condition of approval that ensures that adequate sewage disposal facilities will be available.

The city responds that the condition of approval requiring submittal of a Master Development Plan that addresses, among other things, proposed sanitary sewer improvements is sufficient to "assure that adequate public facilities will be planned for and developed over the planning period to serve not only the subject property but other property within the UGB, consistent with Goal 11 and TCP Goal 11, Policy 1."²⁸ Response Brief 16.²⁹

As petitioners point out, however, condition 1 relating to a Master Development Plan merely requires that the sanitary sewer improvements be reflected in the Master Development Plan; it does not require any demonstration of capacity or adequacy of that system. We also agree with petitioners that the city's explanation of how it plans to fund the necessary improvements is insufficient to demonstrate compliance with Goal 11 and Plan Goal 11, Policy 1. The city's finding of feasibility, unaccompanied by a condition of

approval that ensures compliance with the applicable approval criteria, requires remand.

Petitioners' fifth assignment of error is sustained.

The city's decision is remanded.

Notes:

1. As the city explains in its response brief, the city has unusual boundaries — approximately two-thirds of the land lying within the city limits lies outside its UGB. Response Brief 1.

2. TZO 36.8 requires that specific findings be made for quasi-judicial proposals to amend the comprehensive plan:

"A. Such amendments shall be approved only when the following findings are made:

"1. There is a public need for the change.

"* * *"

Goal 14 provides, in relevant part:

"Urban growth boundaries shall be established to identify and separate urbanizable land from rural land. Establishment and change of the boundaries shall be based upon consideration of the following factors:

"(1) Demonstrated need to accommodate long-range urban population growth requirements consistent with LCDC goals;

"(2) Need for housing, employment opportunities, and livability[.]"

3. OAR 660-004-0022 provides, in pertinent part:

"An exception Under Goal 2, Part II(c) can be taken for any use not allowed by the applicable goal(s). The types of reasons that may or may not be used to justify certain types of uses not allowed on resource lands

are set forth in the following sections of this rule:

"(1) For uses not specifically provided for in subsequent sections of this rule or OAR 660, Division 014, the reasons shall justify why the state policy embodied in the applicable goals should not apply. Such reasons include but are not limited to the following:

"(a) There is a demonstrated need for the proposed use or activity, based on one or more of the requirements of Statewide Goals 3 to 19; * * *

"* * * *"

4. The city's Goal 10 findings are extensive. Following its extensive analysis of the city's housing needs, the challenged decision finds:

"The City finds that, based on the evidence in Findings 10-30, there is a demonstrated public need to add 90 acres of land with a Residential Comprehensive Plan Designation to the Urban Growth Boundary in order to provide adequate land to meet anticipated future demands for urban development in a logical and orderly manner and to provide, within the UGB, adequate amounts of buildable land to meet the projected needs for residential land from 2000 to 2020, in compliance with Tangent Comprehensive Plan Purpose Statement D and Urbanization Policy 5 and Goal 10. Residentially designated land is needed for housing to accommodate long-range population growth in the City. Therefore, the City finds that the applications comply with TZO 36.8.A.1, OAR 660-004-022(1)(a) and Goal 14 Factors 1 and 2." Record 21.

5. The TCP contains the following table:

"COMPARISON OF AVAILABLE AND NEEDED BUILDABLE LAND

Planned and



"Type Needed Acres Zoned Acres

"Single Family 47.5 44.0

"Multi-Family 4.0 18.0

"Mobile Home 23.5 28.0

"TOTAL 75.0 90.0"

6. It is unclear whether the comprehensive plan's BLI was updated during periodic review.

7. The BLI in the 2002 comprehensive plan references data from the late 1970`s or early 1980`s.

8. Petitioners only argue that the BLI was "re-adopted" when the comprehensive plan was revised in 2002.

9. The TCP provides: "Using the year 2005 population projection of 1,000, * * * it can be determined that a total of 420 housing units will be needed." TCP 99-100. The plan also provides: "By allowing for mobile homes and multi-family housing in the forms described above, the City has provided sufficient buildable land to meet its housing needs to the year 2004." TCP 99:

10. The moratorium statutes were substantially rewritten in 1999. ORS 197.524 currently provides:

"(1) When a local government engages in a pattern or practice of delaying or stopping the issuance of permits, authorizations or approvals necessary for the subdivision or partitioning of, or construction on, any land, including delaying or stopping issuance based on a shortage of public facilities, the local government shall:

"(a) Adopt a public facilities strategy under ORS 197.768; or

"(b) Adopt a moratorium on construction or land development under ORS 197.505 to 197.540."

11. At oral argument, we understood the city to argue that intervenor's housing analysis in fact was incorporated into the comprehensive plan. It is unclear whether the city's position is simply that the analysis was part of the record and formed the basis for the decision. Whatever its argument, incorporation of that information into the comprehensive plan would have required a legislative comprehensive plan amendment, as explained below. That process clearly was not followed.

12. Goal 2 provides, in pertinent part:

"All land-use plans and implementation ordinances shall be adopted by the governing body after public hearing and shall be reviewed and, as needed, revised on a periodic cycle to take into account changing public policies and circumstances, in accord with a schedule set forth in the plan. Opportunities shall be provided for review and comment by citizens and affected governmental units during preparation, review and revision of plans and implementation ordinances."

13. Goal 2 provides, in pertinent part:

"All land use plans shall include identification of issues and problems, inventories and other factual information for each applicable statewide planning goal, evaluation of alternative courses of action and ultimate policy choices, taking into consideration social, economic, energy and environmental needs. The required information shall be contained in the plan document or in supporting documents. * * *"

14. OAR 660-008-0010 provides:

"The mix and density of needed housing is determined in the housing needs projection. Sufficient buildable land shall be designated on the comprehensive plan map to satisfy housing needs by type and density range as determined in the housing needs projection. The local buildable lands



inventory must document the amount of buildable land in each residential plan designation."

15. While the obligation to inventory buildable land is intended to be that of the local government, where a local government has not satisfied its obligation to periodically update its inventory, and where the acknowledged inventory is essentially useless, the applicant's burden to demonstrate compliance with Goal 10, Goal 14 and the showing of public need may, in some instances, require the applicant to supply the background, technical information that Goal 2 mandates be made part of the comprehensive plan.

16. The city alleges that it adopted that population projection. Petitioners allege that that assertion by the city relies on minutes reflecting that adoption, and that those minutes are not part of the record.

17. The sole reference to the figure relied upon by petitioners appears in Goal 10 of the TCP: "CITY GOAL 1: TO PROVIDE FOR THE HOUSING NEEDS OF THE COMMUNITY WITH AN ANTICIPATED POPULATION OF APPROXIMATELY 1,000 BY THE YEAR 2020." TCP 20.

18. The city's actual population in the year 2000 was 933. Record 84. It is doubtful that the city adopted a population projection of 1,000 for the year 2020, when it adopted the TSP in 2002, knowing that the actual population in the year 2000 was 933.

19. If the city, on remand, adopts a legislative plan amendment incorporating the housing needs analysis into its comprehensive plan, whatever population projection the city uses for that needs analysis will presumably become part of the comprehensive plan.

20. Petitioners also cite to Goal 14, factor 7, which requires consideration of: "Compatibility of the proposed urban uses with nearby agricultural activities" when

establishing or changing urban growth boundaries." While the findings identify agricultural uses to the east of the subject property, petitioners challenge only the city's reliance on the park and landscaped trail to demonstrate compatibility with surrounding residential and commercial uses.

21. The findings state:

"The City finds the proposed use of the subject property is residential with a 10,000 minimum square foot minimum lot size. The City finds the subject property borders urban uses on three sides and agricultural use to the east. Seventy percent of its perimeter borders urban uses. The property borders large-lot, residential development to the south, across Tangent Drive. A 6.0 acre park will be developed on the north side of Tangent Drive, further separating development on the subject property from existing residences. The low density residential development that will occur in this part of the property will be completely compatible with existing residential development to the south.

"The City finds the subject property borders mixed commercial/residential uses to the west, across the Union Pacific Railroad right-of-way, and Tangent Business Park to the north. A 30-foot wide, landscaped perimeter trail will be built along the west and northern boundaries. This will provide a buffer between the uses. The City finds that low density residential development will be compatible with existing planned uses to the west and north, due to the general compatibility of the types of uses and the extensive separation and landscape buffering.

"* * * * *" Record 32.

22. Goal 14 provides, in relevant part:

"Urban growth boundaries shall be established to identify and separate urbanizable land from rural land. Establishment and change of the boundaries



shall be based upon consideration of the following factors:

"* * * * *

"The results of the above considerations shall be included in the comprehensive plan. * * *

"* * * * *"

23. The findings state: "The reasons justifying an exception to Goal 14 are presented under the seven factors of Goal 14 in Findings 33-39." Record 22.

24. Goal 11 requires the city to "plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development." "Urban facilities and services" is defined to include "appropriate types and levels of * * * sanitary facilities."

Plan Goal 11, Policy 1 states: "[t]he City of Tangent shall ensure that a full range of services are available for the citizens of Tangent at levels appropriate for the planned development during the planning period."

25. The findings state:

"The City finds that the information presented in the application and reviewed in Findings 76-84 demonstrates that it is physically and economically feasible for all public facilities, services and improvements necessary for residential development to be made available prior to or concurrent with the development. The City finds that the cost of utility services for any new development or proposed land division can and shall be paid by the developer. The City finds that, at the time of subdivision of the property, the developer can and shall be responsible for providing and paying for the services required, and for upgrading and improving impacted public facilities and services as necessary." Record 41.

26. Condition 11 provides:



"Prior to proposed development on the property, the applicant shall provide verification of adequate water and sanitary sewer capacity on-site to serve the proposed use. Calculations prepared by a Registered Professional Engineer shall certify sanitary sewer flows for the proposed development, and shall clearly identify the capacity of the STEP system and

treatment facilities needed to support the proposed development. All new STEP system facilities shall be designed and constructed in conformance with the Tangent Public Work's Design Standards." Record 102.

27. The findings state:

"The City of Tangent uses a STEP community sanitary sewer system. The capacity of the current system is approximately 1,369 individuals based on the City Engineering Firm's (Westech Engineering, Inc.) memo dated Jan. 8, 2004, which is hereby incorporated into these Findings. The City finds that this is an increase of about 350 to 400 over the current population. The projected 20-year increase in population is 648 individuals. Improvements will need to be made to the system within the City's 20-year planning period." Record 42.

28. Condition 1 provides, in pertinent part:

"No development of the property or further land division of the property shall occur until a Master Development Plan is presented to the City and approved by the City Council. The Development Plan may be submitted as part of a Subdivision request or a Planned Development request. Elements of the Development Plan shall include:

"* * *

"Sanitary Sewer Improvements

"* * *" Record 101.

29. The city also argues that the recently adopted land use regulations require

adequate sewage disposal prior to development. Both parties concede, however, that those regulations were not in existence when the challenged decision was adopted. Accordingly, they cannot be relied upon as a basis for determining compliance with Goal 11 and TCP Goal 11, Policy 1.

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MONDALEE LENGKEEK, MERVIN LENGKEEK, EILEEN SAMARD, ARLEN SAMARD, JOANNE McLENNAN, and SEATON McLENNAN, Petitioners,

v.

CITY OF TANGENT, Respondent, and MELVIN M. BRUSH, Intervenor-Respondent.

LUBA No. 2006-076.

**Oregon Land Use Board of Appeals.
September 11, 2006.**

Appeal from City of Tangent.

Corinne C. Sherton, Salem, filed the petition for review and argued on behalf of petitioners. With her on the brief was Johnson and Sherton, PC.

No appearance by City of Tangent.

Edward F. Schultz, Albany, filed the response brief and argued on behalf of intervenor-respondent. With him on the brief were Andrew J. Bean and Weatherford, Thompson, Cowgill, Black and Schultz, PC.

HOLSTUN, Board Member; BASSHAM, Board Chair, participated in the decision.

REMANDED.

You are entitled to judicial review of this Order. Judicial review is governed by the provisions of ORS 197.850.

FINAL OPINION AND ORDER

Opinion by Holstun.

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Header ends here.

NATURE OF THE DECISION

Petitioners appeal a city decision that expands its urban growth boundary (UGB).

MOTION TO INTERVENE

Melvin Brush (intervenor), the applicant below, moves to intervene on the side of respondent. There is no opposition to the motion and it is granted.

MOTION TO FILE REPLY BRIEF

Petitioners move to file a reply brief. The reply brief properly responds to new matters raised in the intervenor-respondent's brief. The motion to file a reply brief is granted.

FACTS

Intervenor owns an 84.26-acre parcel within the city limits, but outside the UGB, of the City of Tangent. In 2004, intervenor applied for a UGB amendment, comprehensive plan map amendment, and zoning map amendment to bring the parcel within the UGB. The city approved the application, and the decision was appealed to LUBA. We remanded the city's decision in *Lengkeek v. City of Talent*, 50 Or LUBA 367 (2005) (*Lengkeek I*). On remand, intervenor amended his application to seek an expansion of the UGB to include approximately 50 acres, as well as a comprehensive plan map amendment, a zoning map amendment, and an exception to Goals 3 (Agricultural Lands) and 14 (Urbanization). The city approved the application and this appeal followed.

FIRST ASSIGNMENT OF ERROR

A. Seaton McLennan

All of the petitioners except Seaton McLennan were petitioners in *Lengkeek I*. On remand, the city conducted a purported public hearing but limited participation solely to parties to *Lengkeek I*. Petitioner Seaton McLennan attempted to participate at the hearing and submit written testimony, but the city refused to accept his written materials or allow his



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participation. Petitioners argue the city erred by refusing to allow petitioner Seaton McLennan to participate in the hearing on remand.¹

When LUBA remands a decision, a local government has considerable discretion in determining the procedure on remand. *Fraley v. Deschutes County*, 32 Or LUBA 27, 36 (1996) (absent instructions from LUBA or local provisions to the contrary, a local government is not required on remand to repeat the procedures that were followed in the initial proceedings). Depending on the nature of the remand from LUBA, a local government may proceed in a number of different ways. There is no absolute requirement that a local government hold a public hearing to accept additional evidence on remand. *Arlington Heights Homeowners v. City of Portland*, 41 Or LUBA 185, 208 (2001); *Washington Co. Farm Bureau v. Washington County*, 22 Or LUBA 540 (1992). For instance, where a decision is remanded for defective findings, a local government may simply need to rewrite the findings. In other circumstances, the local government may conduct additional hearings and accept additional evidence into the record. *Bouman v. Jackson County*, 23 Or LUBA 628 (1992).

As the parties note, in *Crowley v. City of Bandon*, 43 Or LUBA 79, 96 (2002), we stated that whether a local government "may limit participation in the proceedings on remand to the parties in the original appeal * * * is an open question."² We now answer that question, at least as it applies to the present circumstances. In this case, as we have already noted, the applicant modified his proposal and submitted additional documentation in support of that amended application. In such a case, while the city may limit legal argument and any

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evidentiary submittals on remand to argument and evidence that is relevant to the issues that must be resolved on remand, we do not believe the city may limit participation to the parties who participated in the first appeal.

Neither the parties to the first appeal nor other persons who for whatever reason did not participate in the first appeal have had an opportunity to comment on the modified application. As petitioners correctly point out, the city's own plan guarantees its citizens a right to do so. The city erred in limiting participation below to the parties in *Lengkeek I*.³

This subassignment of error is sustained.

B. DLCD

Petitioners also argue that the city erred by preventing the Department of Land Conservation and Development (DLCD) from participating. Given the special role that is assigned to DLCD regarding post-acknowledgment plan amendments, we agree with petitioners. *Oregon City Leasing, Inc. v. Columbia County*, 121 Or App 173, 177, 854 P2d 495 (1993).

This subassignment of error is sustained.

The first assignment of error is sustained.

SECOND ASSIGNMENT OF ERROR

A. Buildable Lands Analysis

The City of Tangent Zoning Ordinance (TZO) and Goal 14, Factors 1 and 2, require a demonstration of public need in order to amend the UGB. In *Lengkeek I*, we determined that the buildable lands inventory analysis (BLI) contained in the Tangent Comprehensive Plan (TCP) only provides analysis to 2005 and could not be relied upon to expand the UGB. Intervenor attempted to demonstrate the public need for additional



residential housing by submitting his own BLI. After discussing the relevant caselaw, we remanded the city's

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decision because the housing analysis was not contained in the comprehensive plan or proposed as an amendment to the comprehensive plan.

"Goal 10 requires local governments to inventory buildable lands, and Goal 2 requires that those inventories be part of the comprehensive plan. Where local governments do not have a useable inventory, they may rely on an applicant to provide that information. However, if they do so, the comprehensive plan must be amended concurrently to incorporate that inventory." 50 Or LUBA at 378-79.

Petitioners argue the city failed to respond to LUBA's remand:

"In *Lengkeek I*, 50 Or LUBA at 372, LUBA determined that the buildable lands analysis contained in the TCP covers 'a planning period that ends, at the latest, in 2005' and, therefore, 'projects needed residential lands only to the year 2005.' LUBA also found that any local government 'with a housing needs projection that uses a planning period that has already passed, is essentially operating without a useable acknowledged housing needs analysis.' *Lengkeek I*, 50 Or LUBA at 378. LUBA stated that if a local government does not have a useable housing needs analysis, it 'may rely on an applicant to provide that information,' but 'the comprehensive plan must be amended concurrently' to incorporate that analysis. *Id.* LUBA concluded by holding that Statewide Planning Goals 10 (Housing), 2 (Land Use Planning) and 1 (Citizen Involvement) require that a buildable lands analysis upon which a determination of public need for a UGB amendment is based must be incorporated into the comprehensive plan."

"The legal determinations by LUBA were not appealed to the Court of Appeals and, therefore, cannot be challenged now. The only way the applicable law has changed since LUBA's decision in *Lengkeek I*, is that the Court of Appeals has made it even more definite that Goal 2 requires that a UGB amendment must be based on a city's acknowledged comprehensive plan and land use regulations. *See 1000 Friends of Oregon v. City of Dundee*, 203 Or App 207, 216, ___ P3d ___ (2005) (comprehensive plan amendment).

"The challenged decision relies on a new residential land need analysis that apparently purports to cover the period 1985 – 2022. This analysis has been adopted as part of the findings supporting the challenged decision, but has not been incorporated into the comprehensive plan. * * *

"What the city appears to have done is adopt an analysis proposed by the applicant, in which isolated data and assumptions taken from the TCP's expired housing needs analysis, and a population projection from the TSP * * *, have been used, to extend the expired housing needs analysis for an additional 17 years. * * * [S]ome of the parameters used in the analysis (*e.g.*, 4.0 dwellings per net buildable acre, 25% of gross buildable acres being used

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for streets or other public infrastructure) are not found in the TCP." Petition for Review 9-10 (footnotes and some citations omitted).

We leave open the possibility that a comprehensive plan BLI might be structured so that it can be extended past its nominal expiration date without amending the comprehensive plan, although the permissibility of such an option seems highly questionable given the Court of Appeals' decision in *Dundee*.⁴ But whatever may be the case in other circumstances, the City of

Tangent's BLI is not structured in that way. As petitioners point out, intervenor was required to apply assumptions that are not included in the comprehensive plan's BLI. Extrapolation of the BLI based on assumptions not in the comprehensive plan is not consistent with the Goal 2 requirement that decisions be "based on" the comprehensive plan. While all of the assumptions that underlie intervenor's extrapolation of the now expired BLI may be valid, extrapolation of the BLI based on those assumptions must be adopted as part of the city's comprehensive plan, if the city intends to rely on that extrapolation or assumptions as a basis for the challenged UGB amendment. As part of the comprehensive plan amendment process, the validity of those assumptions can be challenged and defended.

This subassignment of error is sustained.

B. Population Projections

In *Lengkeek I*, the city relied on a population projection that was not contained in the TCP. We held that the city could only rely on a population projection that had been incorporated into the TCP. The TCP does include a population projection that was produced in the city's transportation system plan (TSP), which is part of the city's comprehensive plan. Although the city did not rely on the population projection contained in the TSP (which is higher than the population projection used in *Lengkeek D*), we stated that the population projection contained in the TSP "provides the only population projection upon which the city

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could rely." 50 Or LUBA at 380. On remand, the city relied upon the population projection in the TSP. Petitioners argue that using the TSP population projection was error.

While we agree with petitioners that our statement regarding the TSP population

projection was *dictum*, we also see no reason to depart from that *dictum* here. As we discussed in *Lengkeek I*, what is important about population projections and BLIs is that they must be included in the comprehensive plan. The particular part of the comprehensive plan where a population projection is included is not critical. Petitioners argue that the TSP population figures were adopted for purely transportation purposes and constitute worst case scenarios that are inappropriate for BLIs. While the city was presumably not bound to use the TSP population projections, the fact that they were developed for transportation planning purposes rather than for housing purposes is not critical unless there is some reason to suspect that those population projections are so tailored for a specific planning purpose that they cannot be used for other purposes. While the TSP population projections may constitute "worst case scenarios," the city is presumably entitled to assume worst case scenarios when estimating its need for buildable lands. The city did not error by using the TSP population projections.

This subassignment of error is denied.

The second assignment of error is sustained in part and denied in part.

DE FACTO MORATORIUM

Intervenor argues that "failure to allow any development because of the lack of buildable lands data in the [TCP] and related planning documents results in a de facto moratorium." Response Brief 11. We are not sure what significance to assign to that argument. Intervenor did not file a cross-petition for review as allowed by OAR 661-010-0030(7), and we do not see that he could, since he concurred with the city's decision. Intervenor does not style his argument as a cross-assignment of error, and we do not see that it is, since a cross-assignment of error is

typically used to request LUBA's review of alleged

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errors in the decision only if the decision is remanded for reasons set out in the petition for review. Intervenor does not argue the city erred in any way.

If intervenor is arguing that the result of sustaining petitioners' assignments of error would force the city into a de facto moratorium, we do not agree. The city did not deny intervenor's application — the city approved the UGB amendment. The city's error was in not concurrently amending its comprehensive plan to include the BLI that the UGB amendment depends on. On remand, there is nothing that would prevent the city from including the updated BLI in its comprehensive plan (and the city may already be in the process of doing so). If on remand the city denies intervenor's application, intervenor could then make the argument that such denial constitutes a de facto moratorium.⁵ Any consideration of the issue at this point would be premature and speculative.

However intervenor's argument is categorized, it is rejected.

The city's decision is remanded.

Notes:

1. Intervenor suggested at oral argument that Seaton McClennan did not attempt to appear below. Even though this argument was not raised in the response brief as required by OAR 661-010-0040(1), we nonetheless reject it. Seaton McLennon attempted to give oral testimony and to submit a letter into the record. The juncture of the public hearing at which this attempt was made is immaterial.

2. In *Crowley*, the city purported to limit participation in a public hearing to the parties in the original appeal, but at the hearing allowed other parties to participate.

3. A local government is of course still free to exercise its inherent gatekeeping authority and to enforce any local exhaustion of remedies requirements.

4. For example an acknowledged comprehensive plan BLI might both provide estimates for a specific planning period and expressly provide a methodology for updating that estimate after that planning period expires in a manner that does not require that the comprehensive plan to be amended.

5. We express no opinion here on the merits of such an argument.

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MONDALEE LENGKEEK, MERVIN LENGKEEK, EILEEN SAMARD, ARLEN SAMARD and JOANNE McLENNAN, Petitioners,

v.

CITY OF TANGENT, Respondent, and MELVIN M. BRUSH, Intervenor-Respondent.

LUBA No. 2007-007.

Oregon Land Use Board of Appeals.

April 25, 2007.

Appeal from City of Tangent.

Corinne C. Sherton, Salem, filed the petition for review and argued on behalf of petitioners. With her on the brief was Johnson & Sherton, PC.

No appearance by City of Tangent.

Edward F. Schultz, Albany, filed the response brief and argued on behalf of intervenor-respondent. With him on the brief were Andrew J. Bean and Weatherford Thompson Cowgill Black & Schultz, PC.

HOLSTUN, Board Member; BASSHAM, Board Chair; RYAN, Board Member, participated in the decision.

REVERSED.

You are entitled to judicial review of this Order. Judicial review is governed by the provisions of ORS 197.850.

FINAL OPINION AND ORDER

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Opinion by Holstun.

Header ends here.

NATURE OF THE DECISION

Petitioners appeal a city decision approving an urban growth boundary (UGB) amendment, a comprehensive plan amendment, a zoning map amendment, and exceptions to Goals 3 (Agricultural Lands) and Goal 14 (Urbanization).

MOTION TO INTERVENE

Melvin M. Brush (intervenor), the applicant below, moves to intervene on the side of respondent. There is no opposition to the motion, and it is granted.

FACTS

This is the third time this matter has been appealed to LUBA. In *Lengkeek v. City of Tangent*, 50 Or LUBA 367 2005 (*Lengkeek I*), we remanded a city decision that amended the city's UGB to add 84 acres.¹ We set out the facts in *Lengkeek I*:

"The subject property is an 84.26-acre parcel within the city limits of Tangent, lying west of agricultural land lying outside the city's UGB. The subject property lies east of Highway 99 and the Union Pacific Railroad tracks, and north of Tangent Drive. To the west across the railroad tracks are mixed commercial/residential uses. To the north is the Tangent Business Park. In 2004, the applicant below (intervenor) submitted an application seeking the land use approvals listed above. Petitioners appeal the city council's adoption * * * approving those requests. 50 Or LUBA at 368-69 (footnote omitted).

After our remand in *Lengkeek I*, intervenor amended the application to request that only approximately 50 acres of the subject property be included inside the UGB. We remanded the city's first remand decision in *Lengkeek v. City of Talent*, 52 Or LUBA 509 (2006) (*Lengkeek II*). On remand from our decision in *Lengkeek II*, the city approved a second remand decision to



approve the original 84-acre parcel into the UGB. This appeal followed.

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ASSIGNMENT OF ERROR

To understand petitioners' assignment of error, some background discussion of the prior cases is warranted. In order to amend the UGB to include the subject property as residential land, the city must demonstrate that there is a need for additional residential land. To demonstrate a need for additional residential land, a city generally relies on its buildable lands inventory (BLI). The Tangent BLI, however, only projects residential land needs through the year 2005, and shows that the city has a surplus of residential land. Because the Tangent BLI is outdated and does not show a need for additional residential land, intervenor submitted his own BLI purporting to demonstrate that there is a need for the additional land for residential purposes. The city relied on intervenor's BLI to approve the UGB amendments, but did not adopt intervenor's BLI as part of the Tangent Comprehensive Plan (TCP). The only BLI that is part of the TCP continues to be the expired BLI that shows a surplus of residential land through the year 2005.

A. *Lengkeek I*

In *Lengkeek I*, we explained that the BLI contained in the TCP only addresses residential land needs through 2005 and could not be relied upon to approve the UGB amendment. We also held that the city could not rely on intervenor's updated BLI because it had not been adopted as part of the TCP.

"Goal 10 requires local governments to inventory buildable lands, and Goal 2 requires that those inventories be part of the comprehensive plan. Where local governments do not have a useable inventory, they may rely on an applicant to provide that information. However, if they do so, the

comprehensive plan must be amended concurrently to incorporate that inventory." 50 Or LUBA at 378-79.

We therefore remanded the city's decision.

B. *Lengkeek II*

On remand, intervenor modified his application to propose to add approximately 50 acres to the UGB. In approving the smaller UGB amendment, the city argued that it was

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permissible to use the year 2020 population projections that are included in the city's transportation system plan to update the BLI, because the transportation system plan is adopted as part of the TCP. While we concluded in *Lengkeek II* that the year 2020 population projections could be used to update the BLI, because those population projections are included in the TCP, we also concluded that the city again erred by relying on an updated BLI that had not been adopted as part of the TCP. We left open the possibility that there might be circumstances where a city could approve a UGB amendment without first adopting any necessary update to its BLI as part of its comprehensive plan. However, we observed that a recent Court of Appeals decision rendered that possibility "highly questionable." We also held that the city could not rely on the updated BLI in *Lengkeek II*, which was not adopted as part of the TCP, because it relied on assumptions that were not adopted in the TCP.

"We leave open the possibility that a comprehensive plan BLI might be structured so that it can be extended past its nominal expiration date without amending the comprehensive plan, although the permissibility of such an option seems highly questionable given the Court of Appeals' decision in [*1000 Friends of Oregon v. City of*



Dundee, 203 Or App 207, 124 P3d 1249 (2005) (*Dundee*)]. But whatever may be the case in other circumstances, the City of Tangent's BLI is not structured in that way. As petitioners point out, intervenor was required to apply assumptions that are not included in the comprehensive plan's BLI. Extrapolation of the BLI based on assumptions not in the comprehensive plan is not consistent with the Goal 2 requirement that decisions be 'based on' the comprehensive plan. While all of the assumptions that underlie intervenor's extrapolation of the now expired BLI may be valid, extrapolation of the BLI based on those assumptions must be adopted as part of the city's comprehensive plan, if the city intends to rely on that extrapolation or assumptions as a basis for the challenged UGB amendment. As part of the comprehensive plan amendment process, the validity of those assumptions can be challenged and defended." 52 Or LUBA at 514-15 (footnote omitted).

Because the city relied on a BLI that was not adopted as part of the TCP and relied on assumptions that were not included in the TCP, we again remanded the city's decision.

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C. 1000 Friends of Oregon v. City of Dundee

In the above quoted portion of *Lengkeek II*, we stated that the Court of Appeals' decision in *Dundee* makes the proposition that an expired or outdated BLI may be updated and relied on to approve a UGB amendment, without first adopting that updated BLI as part of the TCP, "highly questionable." In *Dundee*, LUBA affirmed a city decision that amended the city's comprehensive plan to allow a proposed highway through the city that opponents alleged would occupy needed residential land. *1000 Friends of Oregon v. City of Dundee*, 49 Or LUBA 601 (2005). In concluding that the

plan amendment would leave the city with sufficient residential land, the city relied on an updated BLI. The comprehensive plan expressly recognized the need for BLI updates and anticipated that such BLI updates would be adopted in the future, but the update the city relied on had not yet been adopted as part of the city's comprehensive plan. In affirming that city's decision in *Dundee*, LUBA concluded that the express requirement in the city's comprehensive plan for BLI updates allowed the city to rely on such updates even though they had not yet been adopted as part of the city's comprehensive plan. The Court of Appeals reversed our decision.

"In sum, a planning decision based on a study contemplated by a comprehensive plan but not incorporated into the comprehensive plan after the study is carried out is not a planning decision that is made on the basis of the comprehensive plan and acknowledged planning documents * * *. That is not a matter of mere abstract concern. Rather, it goes to the heart of the practical application of the land use laws: The comprehensive plan is the fundamental document that governs land use planning. Citizens must be able to rely on the fact that the acknowledged comprehensive plan and information integrated in that plan will serve as the basis for land use decisions, rather than running the risk of being 'sandbagged' by government's reliance on new data that is inconsistent with the information on which the comprehensive plan was based. LUBA erred in concluding otherwise." 203 Or App at 216.

Although the Court of Appeals' decision in *Dundee* may be limited to its facts, it stands for the general proposition that where a comprehensive plan is amended in a way that relies on an updated BLI, that updated BLI must be incorporated into the city's comprehensive plan.

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D. The Current Appeal

After our remand in *Lengkeek II*, the city apparently focused on the following portion of our opinion, which we also quoted earlier:

"We leave open the possibility that a comprehensive plan BLI might be structured so that it can be extended past its nominal expiration date without amending the comprehensive plan, although the permissibility of such an option seems highly questionable given the Court of Appeals' decision in *Dundee*." 52 Or LUBA at 514.

In the footnote omitted above, we described what such a permissible BLI and update might look like:

"For example an acknowledged comprehensive plan BLI might both provide estimates for a specific planning period *and expressly provide a methodology for updating that estimate after that planning period expires in a manner that does not require that the comprehensive plan to be amended.*" 52 Or LUBA at 514 n 4 (emphasis added).

Intervenor argues that on remand, the updated BLI was based completely on extrapolations "made solely on valid assumptions that are contained within the TCP." Response Brief 4. Intervenor focuses on the proper paragraph from *Lengkeek II*, but appears to ignore the emphasized language in footnote four in *Lengkeek II* and the remainder of that paragraph that explains that while in theory a BLI might be structured to alleviate the need for adoption of a new BLI into the comprehensive plan, the BLI in the TCP is not such a BLI. We quote the rest of that paragraph again.

"*But whatever may be the case in other circumstances, the City of Tangent's BLI is not structured in that way.* As petitioners point out, intervenor was required to apply assumptions that are not included in the

comprehensive plan's BLI. Extrapolation of the BLI based on assumptions not in the comprehensive plan is not consistent with the Goal 2 requirement that decisions be 'based on' the comprehensive plan. While all of the assumptions that underlie intervenor's extrapolation of the now expired BLI may be valid, extrapolation of the BLI based on those assumptions must be adopted as part of the city's comprehensive plan, if the city intends to rely on that extrapolation or assumptions as a basis for the challenged UGB amendment. As part of the comprehensive plan amendment process, the validity of those assumptions can be challenged and defended." 52 Or LUBA at 514 (emphasis added).

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Even if there is some way to read the Court of Appeals' *Dundee* decision to allow a comprehensive plan BLI to be structured in a way that would permit it to be updated and relied on without amending the comprehensive plan, and assuming that our decision in *Lengkeek II* does not authoritatively decide that the BLI in the TCP is not one of those theoretically possible BLIs, intervenor's latest attempt does not demonstrate that the city may rely on the updated BLI without first amending the TCP to replace the expired BLI with the updated BLI. As we noted in *Lengkeek II*, such a BLI would need to provide estimates for a specific planning period *and "expressly provide a methodology for updating that estimate."* 52 Or LUBA at 514 n 4. The BLI in the TCP provides a residential land needs estimate for a specific planning period (through the year 2005), but it is completely silent on the subject of updating the BLI. It certainly does not "*expressly provide a methodology for updating*" the BLI to estimate residential land needs after the year 2005. It appears that the updated BLI that the city relied on in the decision that is before us in this appeal merely took the 20-year old assumptions that were used to produce the expired BLI that is

adopted as part of the TCP and applied those old assumptions to the year 2020 population projection that is included in the city's transportation system plan. That is certainly not the type of updated BLI we gave as an example in *Lengkeek II* that might be relied upon without adopting that updated BLI as part of the comprehensive plan, in the unlikely event that *Dundee* does not foreclose such an exercise altogether. We reach the same conclusion we reached in *Lengkeek I* and *Lengkeek II*: the city may not rely upon intervenor's updated BLI without incorporating it into the TCP. Finally, intervenor argues that even though the BLI may have expired in 2005, under the "fixed goal post rule" of ORS 227.178(3), the city can rely on the earlier BLI to approve the UGB amendment. If intervenor is arguing that the UGB amendment can be approved based *solely* on the expired BLI because it had not yet expired when the applications were filed, we reject that argument. The expired BLI does not show a demonstrated need for additional residential lands; it shows a surplus of vacant residential land inside the UGB.

TCP was not so structured. In the present appeal, we again hold that the BLI in the TCP is not structured in a way that allows that outdated BLI to be updated and relied upon to amend the UGB, without first incorporating the amended BLI into the TCP, and that the city cannot rely on intervenor's updated BLI without incorporating it into the TCP. It is clear that the proposed UGB amendment is prohibited as a matter of law, unless the city first amends its TCP to include an updated BLI.

The city's decision is reversed.

Notes:

1. The subject property is already within city limits, but not within the UGB. The city has unusual boundaries; approximately two-thirds of the city lies outside its UGB.

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Petitioners' assignment of error is sustained.

CONCLUSION

Petitioners request that we reverse the city's decision rather than remand the decision for the city to attempt to approve the UGB amendment without first updating its BLI again. OAR 661-010-0071(1)(c) provides that LUBA shall reverse a decision if "[t]he decision violates a provision of applicable law and is prohibited as a matter of law." In *Lengkeek I*, we held the city could not rely on a BLI update that is not included in the TCP. In *Lengkeek II*, we held that the city could not rely on a BLI that was not expressly structured to allow updates without the necessity of a TCP amendment and that the



EUGENE CITY COUNCIL

AGENDA ITEM SUMMARY



**Public Hearing and Action: Resolution Adopting a Supplemental Budget;
Making Appropriations for the City of Eugene for the Fiscal Year
Beginning July 1, 2015 and Ending June 30, 2016**

Meeting Date: June 27, 2016
Department: Central Services
www.eugene-or.gov

Agenda Item Number: 4
Staff Contact: Twylla Miller
Contact Telephone Number: 541-682-8417

ISSUE STATEMENT

The council approval of the second Supplemental Budget (SB2) for Fiscal Year 2015-2016 (FY16) is requested. Oregon Local Budget Law (ORS 294.471) allows for supplemental budgets in the event of “an occurrence or condition that is not ascertained when preparing the original budget or a previous supplemental budget for the current year or current budget period and that requires a change in financial planning.” ORS 294.471 also allows for a supplemental budget if there are “funds that are made available by another unit of federal, state or local government and the availability of which could not reasonably be foreseen when preparing the original budget.” This Supplemental Budget does not authorize any increase in the property tax levy and has been published in compliance with the Oregon Local Budget Law.

BACKGROUND

This Supplemental Budget recognizes new revenues and authorizes changes in legal levels of appropriations for the current fiscal year (FY16). A summary of items included in this Supplemental Budget is presented below:

General Fund

- Recognize \$200,000 in grant revenue from the U.S. Bureau of Justice Assistance (BJA) and the Center for Court Innovation, and increase Central Services department operating appropriation authority by the same amount. This grant is for the implementation and evaluation of a pilot community court project.
- Recognize \$47,400 in grant revenue from the Urban Sustainability Directors Network (USDN) and increase Central Services department operating appropriation authority by the same amount. These grants will fund creating a Sustainable Consumption toolkit, a Building Diversity fellowship, and a peer learning exchange.

Ambulance Transport Fund

- Increase Fire and Emergency Medical Services department operating appropriation authority by \$300,000 from Balance Available for future ambulance replacement. To balance the fund for the FY16 Adopted Budget the ambulance replacement charge was excluded with the intent to submit on a supplemental budget if funding became available. The marginal beginning working capital adjustment of \$0.9 million allows the department to add this item back into the FY16 budget.
- Increase Fire and Emergency Medical Services department operating appropriation authority by \$228,000 from Balance Available for regular wages and overtime payments associated with an arbitration award in union negotiations.

RELATED CITY POLICIES

Transactions included in this Supplemental Budget conform to the City's Financial Management Goals and Policies.

COUNCIL OPTIONS

Particular requests requiring more information or discussion may be removed from the Supplemental Budget and delayed for action until the following fiscal year Supplemental Budget. In certain cases, there may be financial, legal or operational impacts to delaying budget approval.

These impacts may include Oregon Local Budget Law violations due to exceeding the legal appropriation levels. The council may also adopt amended appropriation amounts or funding sources for specific items included in this Supplemental Budget.

CITY MANAGER'S RECOMMENDATION

The City Manager recommends approval of the attached resolution adopting the Supplemental Budget.

SUGGESTED MOTION

Move to adopt Resolution 5157, adopting a Supplemental Budget; making appropriations for the City of Eugene for the Fiscal Year beginning July 1, 2015 and ending June 30, 2016.

ATTACHMENTS

- A. Transaction Summary
- B. Resolution

FOR MORE INFORMATION

Staff Contact: Twylla Miller
Telephone: 541-682-8417
Staff E-Mail: Twylla.J.Miller@ci.eugene.or.us

OR

Staff Contact: Jamie Garner
Telephone: 541-682-5512
Staff E-Mail: Jamie.P.Garner@ci.eugene.or.us

Attachment A

Transaction Summary

010 General Fund

	FY16 Adopted	FY16 SB1 Action	FY16 SB2 Action	FY16 Revised
I. RESOURCES				
BEGINNING WORKING CAPITAL	39,214,362	965,104	0	40,179,466
CHANGE TO WORKING CAPITAL				
REVENUE				
Taxes	106,999,000	1,200,000	0	108,199,000
Licenses/Permits	6,170,000	0	0	6,170,000
Intergovernmental	4,560,357	780,787	247,400	5,588,544
Rental	127,040	0	0	127,040
Charges for Services	13,112,253	448,000	0	13,560,253
Fines/Forfeitures	2,474,200	127,000	0	2,601,200
Miscellaneous	477,947	0	0	477,947
Interfund Transfers	9,519,145	0	0	9,519,145
Total Revenue	143,439,942	2,555,787	247,400	146,243,129
TOTAL RESOURCES	182,654,304	3,520,891	247,400	186,422,595
II. REQUIREMENTS				
Department Operating				
Central Services	22,906,243	1,895,755	247,400	25,049,398
Fire and Emergency Medical Services	27,594,830	1,242,676	0	28,837,506
Library, Recreation and Cultural Services	27,348,754	433,067	0	27,781,821
Planning and Development	5,919,055	1,085,713	0	7,004,768
Police	49,611,910	1,019,912	0	50,631,822
Public Works	5,790,248	366,259	0	6,156,507
Total Department Operating	139,171,040	6,043,382	247,400	145,461,822
Non-Departmental				
Interfund Transfers	4,379,300	900,000	0	5,279,300
Contingency	32,000	(32,000)	0	0
Special Payments	700,000	0	0	700,000
Reserves	12,215,266	(273,793)	0	11,941,473
Reserve for Encumbrances	3,116,698	(3,116,698)	0	0
UEFB	23,040,000	0	0	23,040,000
Total Non-Departmental	43,483,264	(2,522,491)	0	40,960,773
TOTAL REQUIREMENTS	182,654,304	3,520,891	247,400	186,422,595

010 General Fund

a) Increase Intergovernmental revenue by \$247,400 to recognize grants from USDN for sustainability projects (\$47,400) and U.S. Bureau of Justice Assistance for community court pilot project (\$200,000) and increase Central Services department operating appropriation authority by the same amount.

592 Ambulance Transport Fund

	FY16 Adopted	FY16 SB1 Action	FY16 SB2 Action	FY16 Revised
I. RESOURCES				
BEGINNING WORKING CAPITAL	351,331	947,442	0	1,298,773
CHANGE TO WORKING CAPITAL				
REVENUE				
Intergovernmental	0	0	0	0
Charges for Services	7,279,494	135,000	0	7,414,494
Miscellaneous	75,758	0	0	75,758
Total Revenue	7,355,252	135,000	0	7,490,252
TOTAL RESOURCES	7,706,583	1,082,442	0	8,789,025
II. REQUIREMENTS				
Department Operating				
Fire and Emergency Medical Services	6,772,184	135,000	528,000 a	7,435,184
Total Department Operating	6,772,184	135,000	528,000	7,435,184
Non-Departmental				
Interfund Transfers	932,390	0	0	932,390
Balance Available	2,009	947,442	(528,000) a	421,451
Total Non-Departmental	934,399	947,442	(528,000)	1,353,841
TOTAL REQUIREMENTS	7,706,583	1,082,442	0	8,789,025

592 Ambulance Transport Fund

a) Increase Fire and Emergency Medical Services department operating appropriation authority by \$528,000 for ambulance replacement (\$300,000) and overtime and wages related to contract settlement (\$228,000) and decrease Balance Available by the same amount.

Resolution Number 5157

Attachment B

**A RESOLUTION ADOPTING A SUPPLEMENTAL BUDGET;
MAKING APPROPRIATIONS FOR THE CITY OF EUGENE
FOR THE FISCAL YEAR BEGINNING JULY 1, 2015,
AND ENDING JUNE 30, 2016.**

The City Council of the City of Eugene finds that Adopting the Supplemental Budget and Making Appropriations is necessary under ORS 294.471.

NOW THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EUGENE, A
Municipal Corporation of the State of Oregon, as follows:

Section 1.

That the Supplemental Budget for the City of Eugene, Oregon, for the fiscal year beginning July 1, 2015, and ending June 30, 2016, as set forth in attached Exhibit A is hereby adopted.

Section 2.

The supplemental amounts for the fiscal year beginning July 1, 2015, and ending June 30, 2016, and for the purposes shown in attached Exhibit A are hereby appropriated.

Section 3.

That this Supplemental Budget is prepared in accordance with ORS 294.471(1), which authorizes the formulation of a supplemental budget resulting from "An occurrence or condition that is not ascertained when preparing the original budget or a previous supplemental budget for the current year or current budget period and that requires a change in financial planning." This Supplemental Budget was published in accordance with ORS 294.471(3).

Section 4.

This resolution complies with ORS 294.471(4), and does not authorize an increase in the levy of property taxes above the amount in the Adopted Budget publication.

The foregoing resolution adopted this 27th day of June, 2016.

City Recorder

EXHIBIT A

Amounts
in dollarsGENERAL FUND

Department Operating	
Central Services	247,400
Total Department Operating	<u>247,400</u>
TOTAL GENERAL FUND	<u>247,400</u>

AMBULANCE TRANSPORT FUND

Department Operating	
Fire and Emergency Medical Services	528,000
Total Department Operating	<u>528,000</u>
Non-Departmental	
* Balance Available	(528,000)
Total Non-Departmental	<u>(528,000)</u>
TOTAL AMBULANCE TRANSPORT FUND	<u>0</u>

TOTAL REQUIREMENTS - ALL FUNDS	<u><u>247,400</u></u>
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* Reserves, Balance Available, and UEFB amounts are not appropriated for spending and are shown for informational purposes only.

EUGENE CITY COUNCIL

AGENDA ITEM SUMMARY



Public Hearing and Action: A Resolution Adopting the Budget, Making Appropriations, Determining, Levying and Categorizing the Annual Ad Valorem Property Tax Levy for the City of Eugene for the Fiscal Year Beginning July 1, 2016 and Ending June 30, 2017; a Resolution Electing to Receive State Revenue Sharing Funds Pursuant to Section 221.770 of Oregon Revised Statutes; and a Resolution Certifying that the City of Eugene Provides the Municipal Services Required by Oregon Revised Statutes Section 221.760 in Order to Receive State Shared Revenues

Meeting Date: June 27, 2016
 Department: Central Services
www.eugene-or.gov

Agenda Item Number: 5
 Staff Contact: Twylla Miller
 Contact Telephone Number: 541-682-8417

ISSUE STATEMENT

This meeting is to conduct a public hearing and take action to adopt the Fiscal Year 2016-2017 (FY17) budget for the City of Eugene. Oregon Local Budget Law requires the City to conduct a public hearing to receive testimony on the FY17 City of Eugene budget as recommended by the Budget Committee and on the proposed uses of the State Revenue Sharing funds. Resolutions electing to receive State Revenue Sharing funds and certifying that the City of Eugene provides municipal services required for receipt of state-shared revenues are also required in order to continue receiving those funds under ORS 221.760 and 221.770. Finally, ORS 294.456 requires the City Council to pass a resolution adopting the budget, making appropriations, and determining, levying and categorizing the ad valorem property taxes for the next fiscal year.

BACKGROUND

Council Action History

The City Council has consistently met the provision of the Oregon Local Budget Law which requires that a jurisdiction adopts an annual budget by June 30 of each year. If a jurisdiction elects to receive State Revenue Sharing funds, it also must hold a public hearing on the proposed uses of the funds and adopt resolutions or ordinances electing to receive the funds and certifying that the City provides qualifying municipal services.

Financial and Resource Considerations

Financial and resource considerations are detailed in the FY17 Proposed Budget document, available at www.eugene-or.gov/budget, and in the Budget Committee meeting materials, which are available at www.eugene-or.gov/budgetcommittee.

FY17 Proposed Budget and Budget Committee Changes

The City of Eugene FY17 Proposed Budget was based on balancing ongoing revenues and expenditures in the City's General Fund. A summary of the FY17 Proposed Budget changes is provided in Attachment B, Exhibit A. The City of Eugene FY17 Proposed Budget was presented to the Budget Committee for consideration on May 11, 2016.

The City of Eugene Budget Committee review of the FY17 Proposed Budget consisted of three meetings held on May 11, May 18, and May 26, 2016. A public comment period was held at the May 18 meeting and a public hearing was held at the May 26 meeting. The Budget Committee recommendation consists of the City Manager's FY17 Proposed Budget with amendments. A summary of the Budget Committee changes to the FY17 Proposed Budget is provided in Attachment A.

The Budget Committee's final recommendation, approved on May 26, 2016, is as follows:

"Move that the Budget Committee recommend to the Eugene City Council the FY17 Budget for the City of Eugene that consists of the City Manager's Proposed FY17 Budget, including the property tax levies and/or rates contained therein, amended to reflect appropriations for prior year encumbrances and prior year capital projects with the following amendments:

- Allocate \$75,000 (\$20K for grants and \$55K for engagement) for Human Rights and Neighborhood Involvement on an ongoing basis and review the funds allocation process among neighborhoods.
- Allocate an additional \$40,000 for Sister Cities on an ongoing basis.
- Approve the City Manager's "FY17 Human Service Commission (HSC) Option" as presented to the Budget Committee on May 11, 2016 as amended below:
\$610,000 Ongoing Support
\$200,000 Additional Ongoing Support Allocation
\$810,000 in FY17 Budget
\$125,000 Marginal Beginning Working Capital Priority (one-time funding)
\$935,000 FY17 Total
- Allocate \$25,000 of the one-time allocation (MBWC) to the City of Eugene for the rest stop program.
- Recommend the City Council review the City of Eugene General Fund allocation to Human Services Commission (HSC) for Ongoing Support funding in context of overall City of Eugene human services funding with the goal of increasing ongoing support funding to HSC to \$1.1 million by or before FY20.
- Increase Whitebird/CAHOOTS funding \$225,000 on an ongoing basis to enable CAHOOTS vans to provide enhanced service.

- The Budget Committee recommends the restoration of the position of City Council stenographer for City Council and Civilian Review Board meetings. Pending council approval of this recommendation, funding would be added to the December 2016 Supplemental Budget.
- Direct the City Manager to report to or convene the Budget Committee in fall (in advance of service profiles) regarding features of the new corporate software currently being selected in order to understand and explore opportunities that the software will provide for new and better oversight by the Budget Committee.
- Remove from the FY17 Proposed Budget the \$500,000 proposed for 2021 and place the funds in a designated reserve. Direct the City Manager to develop clear criteria to guide the use of the reserve fund being created in the FY17 budget.”

Attachment A reconciles the FY17 Proposed Budget to the FY17 Budget Committee recommended budget. All passed motions and the committee votes are shown in Attachment B.

The Budget Committee recommendation included appropriations for prior fiscal year encumbrances and estimated unexpended capital project funds in the FY16 budget. Encumbrance carryover is for operating budget items contracted for but not expended in FY16. Capital project carryover is for capital appropriations that are estimated to remain unexpended at the end of FY16. Attachment A provides information on encumbrance and capital project carryover by fund.

Additionally, due to the Budget Committee’s changes to the General Fund operating budget, the Unappropriated Ending Fund Balance (UEFB) was increased by \$10,000 to \$23,930,000 to comply with the City policy to maintain two months of expenditures in the UEFB. This increase only impacts the UEFB and the Reserve for Revenue Shortfall, neither of which is appropriated for spending.

State Revenue Sharing

The FY17 estimated revenues from State Revenue Sharing are \$1,823,433. The proposed use of these revenues is to support General Fund services.

Timing

Under Oregon Local Budget Law, the FY17 City of Eugene budget must be adopted by June 30, 2016, and a copy of the adopting resolution must be filed with the Lane County Assessor by July 15, 2016. Additionally, the City must elect to receive State Revenue Sharing funds and file a copy of the corresponding resolution with the State of Oregon Department of Administrative Services by July 31, 2016.

Other Background Information

The FY17 Proposed Budget document, Budget Committee meeting materials, and Budget Committee FY17 budget motions are available on the City’s website at www.eugene-or.gov/budget.

RELATED CITY POLICIES

The FY17 budget was prepared following guidelines established in the Financial Management Goals and Policies.

COUNCIL OPTIONS

After the public hearing on the FY17 budget as recommended by the Budget Committee has been held, the City Council may make changes to the FY17 budget. The City Council may reduce budgeted appropriations in any fund by any amount, as long as resources and requirements remain in balance. No additional process steps are required when appropriations are reduced by the City Council.

Budgeted appropriations may also be increased by the City Council. If the total appropriation increase in any of the reporting funds is less than \$5,000 or 10 percent of the fund's appropriations as recommended by the Budget Committee, whichever is greater, then no additional process steps are required. However, if the appropriations in any fund are increased by more than those limits, the City Council must publish a revised budget notice and hold another public hearing before the adjusted budget can be adopted. Due to the timing requirements associated with the budget notice publication, the last option would effectively not be possible, assuming adoption of the FY17 budget by June 30, 2016.

If the City Council decides to amend the FY17 budget resolutions, the motion must contain specific appropriation line(s) being altered in the resolution, and each motion must be self-balancing, meaning that a resource and a requirement must exactly offset each other.

CITY MANAGER'S RECOMMENDATION

The City Manager recommends passage of the two State Revenue Sharing resolutions and the resolution adopting the Budget Committee's recommended budget for the City of Eugene.

SUGGESTED MOTIONS

- Move to approve Resolution 5158 electing to receive State Revenue Sharing funds pursuant to Section 221.770 of Oregon Revised Statutes.
- Move to approve Resolution 5159 certifying that the City of Eugene provides the municipal services required by Oregon Revised Statutes Section 221.760.
- Move to approve Resolution 5160 adopting the budget, making appropriations, and determining, levying and categorizing the annual ad valorem property tax levy for the City of Eugene for the fiscal year beginning July 1, 2016 and ending June 30, 2017.

ATTACHMENTS

- A. Summary of Changes to the FY17 Proposed Budget
- B. Budget Committee Motions to Amend the FY17 Proposed Budget
 - Exhibit A: FY17 Proposed Budget Changes
- C. Resolution Electing to Receive State Revenue Sharing
- D. Resolution Certifying Municipal Services Provided
- E. Resolution Adopting the FY17 City of Eugene Budget
 - Exhibit A: Fund Schedules
 - Exhibit B: Fund Names

FOR MORE INFORMATION

Staff Contact: Twylla Miller
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OR

Staff Contact: Jamie Garner
Telephone: 541-682-5512
Staff E-Mail: Jamie.P.Garner@ci.eugene.or.us

Summary of Changes to the City of Eugene FY17 Proposed Budget

Fund / Department	FY17 Proposed Budget	Misc. Actions	<----- Budget Committee Actions ----->			FY17 Adopted Budget
			Encumbrances Reserve/Carryover	Capital Carryover	Budget Comm. Recommend.	
A. General Fund						
Central Services	24,222,327	(385,000)	a,c,d		23,837,327	23,837,327
Fire and Emergency Medical Services	28,595,704				28,595,704	28,595,704
Library, Recreation and Cultural Services	28,980,020				28,980,020	28,980,020
Planning and Development	6,144,533	200,000	e		6,344,533	6,344,533
Police	51,027,004	225,000	b		51,252,004	51,252,004
Public Works	5,975,207				5,975,207	5,975,207
Interfund Transfers	4,530,280				4,530,280	4,530,280
Special Payments	700,000				700,000	700,000
Contingency	32,000				32,000	32,000
Reserve	9,787,957	(50,000)	a,b,c,d,e,f	2,455,066	12,193,023	12,193,023
Unappropriated Ending Fund Balance	23,920,000	10,000	f		23,930,000	23,930,000
Total	\$ 183,915,032	-		\$ 2,455,066	- \$ 186,370,098	\$ 186,370,098

- a) Remove from the FY17 Proposed Budget the \$500,000 proposed for 2021 IAAF World Track and Field Championships and place the funds in a designated reserve.
- b) Increase Whitebird/CAHOOTS funding \$225,000 on an ongoing basis to enable CAHOOTS vans to provide enhanced service.
- c) Allocate \$75,000 (\$20,000 for grants and \$55,000 for engagement) for Human Rights and Neighborhood Involvement on an ongoing basis and review the funds allocation process among neighborhoods.
- d) Allocate an additional \$40,000 for Sister Cities on an ongoing basis.
- e) Allocate an additional \$200,000 in ongoing support for the Human Services Commission.
- f) Increase the General Fund Unappropriated Ending Fund Balance (UEFB) by \$10,000 and decrease the Reserve for Revenue Shortfall by the same amount to comply with the City policy to maintain two months of expenditures in UEFB. This change was not explicitly approved by the Budget Committee; however, it only affects the UEFB and the Reserve for Revenue Shortfall, neither of which is appropriated for spending.

Summary of Changes to the City of Eugene FY17 Proposed Budget

Fund / Department	FY17 Proposed Budget	Misc. Actions	Budget Committee Actions			FY17 Adopted Budget
			Encumbrances Reserve/Carryover	Capital Carryover	Budget Comm. Recommend.	
B. <u>Special Assessment Management Fund</u>						
Central Services	97,870				97,870	97,870
Interfund Transfers	8,000				8,000	8,000
Special Payments	30,000				30,000	30,000
Reserve	50,000				50,000	50,000
Balance Available	1,130,505				1,130,505	1,130,505
Total	\$ 1,316,375	-	-	-	\$ 1,316,375	\$ 1,316,375
C. <u>Library Local Option Levy Fund</u>						
Library, Recreation and Cultural Services	2,384,000				2,384,000	2,384,000
Reserve	168,000				168,000	168,000
Total	\$ 2,552,000	-	-	-	\$ 2,552,000	\$ 2,552,000
D. <u>Road Fund</u>						
Public Works	11,791,372		520,850		12,312,222	12,312,222
Interfund Transfers	965,000				965,000	965,000
Balance Available	2,096,415				2,096,415	2,096,415
Total	\$ 14,852,787	-	\$ 520,850	-	\$ 15,373,637	\$ 15,373,637
E. <u>Public Safety Communications Fund</u>						
Police	2,468,749				2,468,749	2,468,749
Interfund Transfers	160,000				160,000	160,000
Reserve	908,520				908,520	908,520
Balance Available	831,835				831,835	831,835
Total	\$ 4,369,104	-	-	-	\$ 4,369,104	\$ 4,369,104
F. <u>Telecommunication Registration/Licensing Fund</u>						
Central Services	2,493,425		240,917		2,734,342	2,734,342
Interfund Transfers	479,000				479,000	479,000
Reserve	302,847				302,847	302,847
Balance Available	3,163,089				3,163,089	3,163,089
Total	\$ 6,438,361	-	\$ 240,917	-	\$ 6,679,278	\$ 6,679,278
G. <u>Construction and Rental Housing Fund</u>						
Fire and Emergency Medical Services	306,904				306,904	306,904
Planning and Development	6,608,727		113,050		6,721,777	6,721,777
Public Works	449,877				449,877	449,877
Interfund Transfers	884,000				884,000	884,000
Special Payments	800,000				800,000	800,000
Balance Available	4,839,853				4,839,853	4,839,853
Total	\$ 13,889,361	-	\$ 113,050	-	\$ 14,002,411	\$ 14,002,411

Summary of Changes to the City of Eugene FY17 Proposed Budget

Fund / Department	FY17 Proposed Budget	Misc. Actions	<----- Budget Committee Actions ----->			FY17 Adopted Budget
			Encumbrances Reserve/Carryover	Capital Carryover	Budget Comm. Recommend.	
H. <u>Solid Waste and Recycling Fund</u>						
Planning and Development	889,810		79,257		969,067	969,067
Interfund Transfers	52,000				52,000	52,000
Balance Available	591,811				591,811	591,811
Total	\$ 1,533,621	-	\$ 79,257	-	\$ 1,612,878	\$ 1,612,878
I. <u>Community Development Fund</u>						
Planning and Development	3,274,735		502,100		3,776,835	3,776,835
Capital Projects	73,200			1,262,943	1,336,143	1,336,143
Debt Service	365,379				365,379	365,379
Interfund Transfers	105,000				105,000	105,000
Special Payments	8,917,286		181,629		9,098,915	9,098,915
Reserve	984,224				984,224	984,224
Total	\$ 13,719,824	-	\$ 683,729	\$ 1,262,943	\$ 15,666,496	\$ 15,666,496
J. <u>Library, Parks and Recreation Fund</u>						
Library, Recreation and Cultural Services	370,000		61		370,061	370,061
Capital Projects	52,282			978,671	1,030,953	1,030,953
Special Payments	102,006				102,006	102,006
Reserve	2,459,461				2,459,461	2,459,461
Balance Available	640,199				640,199	640,199
Total	\$ 3,623,948	-	\$ 61	\$ 978,671	\$ 4,602,680	\$ 4,602,680
K. <u>General Obligation Debt Service Fund</u>						
Debt Service	13,333,507				13,333,507	13,333,507
Total	\$ 13,333,507	-	-	-	\$ 13,333,507	\$ 13,333,507
L. <u>Special Assessment Bond Debt Fund</u>						
Debt Service	300,000				300,000	300,000
Interfund Transfers	10,000				10,000	10,000
Reserve	58,521				58,521	58,521
Total	\$ 368,521	-	-	-	\$ 368,521	\$ 368,521

Summary of Changes to the City of Eugene FY17 Proposed Budget

Fund / Department	FY17 Proposed Budget	Misc. Actions	Budget Committee Actions			FY17 Adopted Budget
			Encumbrances Reserve/Carryover	Capital Carryover	Budget Comm. Recommend.	
M. General Capital Projects Fund						
Library, Recreation and Cultural Services	20,000				20,000	20,000
Capital Projects	3,120,157			23,180,384	26,300,541	26,300,541
Debt Service	50,000				50,000	50,000
Reserve	26,560				26,560	26,560
Balance Available	1,299,941				1,299,941	1,299,941
Total	\$ 4,516,658	-	-	\$ 23,180,384	\$ 27,697,042	\$ 27,697,042
N. Systems Development Capital Projects Fund						
Planning and Development	91,129				91,129	91,129
Public Works	496,588		5,660		502,248	502,248
Capital Projects	5,029,372			6,877,694	11,907,066	11,907,066
Interfund Transfers	41,000				41,000	41,000
Balance Available	15,016,851				15,016,851	15,016,851
Total	\$ 20,674,940	-	\$ 5,660	\$ 6,877,694	\$ 27,558,294	\$ 27,558,294
O. Transportation Capital Projects Fund						
Capital Projects	15,283,662			13,324,347	28,608,009	28,608,009
Debt Service	10,000				10,000	10,000
Balance Available	1,442,872				1,442,872	1,442,872
Total	\$ 16,736,534	-	-	\$ 13,324,347	\$ 30,060,881	\$ 30,060,881
P. Special Assessments Capital Projects Fund						
Interfund Transfers	20,000				20,000	20,000
Balance Available	1,111,696				1,111,696	1,111,696
Total	\$ 1,131,696	-	-	-	\$ 1,131,696	\$ 1,131,696
Q. Municipal Airport Fund						
Fire and Emergency Medical Services	880,671				880,671	880,671
Police	576,555				576,555	576,555
Public Works	7,548,568		490,409		8,038,977	8,038,977
Capital Projects	13,047,643			7,598,605	20,646,248	20,646,248
Interfund Transfers	603,000				603,000	603,000
Reserve	1,387,902				1,387,902	1,387,902
Balance Available	4,819,959				4,819,959	4,819,959
Total	\$ 28,864,298	-	\$ 490,409	\$ 7,598,605	\$ 36,953,312	\$ 36,953,312

Summary of Changes to the City of Eugene FY17 Proposed Budget

Fund / Department	FY17 Proposed Budget	Misc. Actions	<----- Budget Committee Actions ----->			FY17 Adopted Budget
			Encumbrances Reserve/Carryover	Capital Carryover	Budget Comm. Recommend.	
R. <u>Parking Services Fund</u>						
Central Services	407,673				407,673	407,673
Planning and Development	5,395,851		186,129		5,581,980	5,581,980
Public Works	76,628		7,815		84,443	84,443
Capital Projects	50,000			-	50,000	50,000
Interfund Transfers	1,064,425				1,064,425	1,064,425
Balance Available	906,667				906,667	906,667
Total	\$ 7,901,244	-	\$ 193,944	-	\$ 8,095,188	\$ 8,095,188
S. <u>Wastewater Utility Fund</u>						
Public Works	26,004,761		2,147,069		28,151,830	28,151,830
Capital Projects	2,140,000			3,351,684	5,491,684	5,491,684
Interfund Transfers	1,718,000				1,718,000	1,718,000
Special Payments	27,254,200				27,254,200	27,254,200
Balance Available	603,693				603,693	603,693
Total	\$ 57,720,654	-	\$ 2,147,069	\$ 3,351,684	\$ 63,219,407	\$ 63,219,407
T. <u>Stormwater Utility Fund</u>						
Public Works	14,823,084		511,600		15,334,684	15,334,684
Capital Projects	2,265,000			4,909,728	7,174,728	7,174,728
Interfund Transfers	1,154,000				1,154,000	1,154,000
Special Payments	15,000				15,000	15,000
Balance Available	2,234,751				2,234,751	2,234,751
Total	\$ 20,491,835	-	\$ 511,600	\$ 4,909,728	\$ 25,913,163	\$ 25,913,163
U. <u>Ambulance Transport Fund</u>						
Fire and Emergency Medical Services	7,474,415		-		7,474,415	7,474,415
Interfund Transfers	899,998				899,998	899,998
Balance Available	884,664				884,664	884,664
Total	\$ 9,259,077	-	-	-	\$ 9,259,077	\$ 9,259,077
V. <u>Fleet Services Fund</u>						
Public Works	13,633,147		2,461,843		16,094,990	16,094,990
Interfund Transfers	406,000				406,000	406,000
Reserve	14,629,159				14,629,159	14,629,159
Balance Available	448,034				448,034	448,034
Total	\$ 29,116,340	-	\$ 2,461,843	-	\$ 31,578,183	\$ 31,578,183

Summary of Changes to the City of Eugene FY17 Proposed Budget

Fund / Department	FY17 Proposed Budget	Misc. Actions	Budget Committee Actions			FY17 Adopted Budget
			Encumbrances Reserve/Carryover	Capital Carryover	Budget Comm. Recommend.	
W. Information Systems and Services Fund						
Central Services	13,636,758		1,181,920		14,818,678	14,818,678
Interfund Transfers	339,000				339,000	339,000
Reserve	1,364,919				1,364,919	1,364,919
Balance Available	1,728,198				1,728,198	1,728,198
Total	\$ 17,068,875	-	\$ 1,181,920	-	\$ 18,250,795	\$ 18,250,795
X. Facilities Services Fund						
Central Services	9,467,304		97,816		9,565,120	9,565,120
Planning and Development	430,822		151,424		582,246	582,246
Capital Projects	375,000			315,294	690,294	690,294
Debt Service	212,000				212,000	212,000
Interfund Transfers	421,000				421,000	421,000
Reserve	536,500				536,500	536,500
Balance Available	2,175,929				2,175,929	2,175,929
Total	\$ 13,618,555	-	\$ 249,240	\$ 315,294	\$ 14,183,089	\$ 14,183,089
Y. Risk and Benefits Fund						
Central Services	35,817,146		28,703		35,845,849	35,845,849
Debt Service	6,364,500				6,364,500	6,364,500
Interfund Transfers	156,000				156,000	156,000
Reserve	6,813,473				6,813,473	6,813,473
Balance Available	4,328,404				4,328,404	4,328,404
Total	\$ 53,479,523	-	\$ 28,703	-	\$ 53,508,226	\$ 53,508,226
Z. Professional Services Fund						
Public Works	6,164,468		132,751		6,297,219	6,297,219
Interfund Transfers	888,000				888,000	888,000
Reserve	1,576,066				1,576,066	1,576,066
Balance Available	1,146,210				1,146,210	1,146,210
Total	\$ 9,774,744	-	\$ 132,751	-	\$ 9,907,495	\$ 9,907,495
TOTAL CITY OF EUGENE BUDGET	\$ 550,267,414	-	\$ 11,496,069	\$ 61,799,350	\$ 623,562,833	\$ 623,562,833

FY17 Budget Committee Motions

#	Source	Motion	FY17 Budget Changes			1X\$	Vote	Opposed and Abstain Votes; Absent Members	Notes
			Revenue Change	Expenditure Change	Net Amount				
1	Shaver	Allocate \$75,000 (\$20K for grants and \$55K for engagement) for Human Rights and Neighborhood Involvement on an ongoing basis and review the funds allocation process among neighborhoods.	\$0	\$75,000	\$75,000		13-0, passed	<u>Opposed:</u> None <u>Absent:</u> M. Clark, S. Nowicki	
2	Taylor	Allocate an additional \$40,000 for Sister Cities on an ongoing basis.	\$0	\$40,000	\$40,000		12-1, passed	<u>Opposed:</u> G. Poling <u>Absent:</u> M. Clark, S. Nowicki	
3	Beeson	Approve the City Manager’s “FY17 Human Service Commission (HSC) Option” as presented to the Budget Committee on May 11, 2016 as amended below: o \$610,000 Ongoing Support o \$200,000 Additional Ongoing Support Allocation o \$810,000 in FY17 Budget o \$125,000 Marginal Beginning Working Capital Priority (one-time funding) \$935,000 FY17 Total	\$0	\$200,000	\$200,000		13-0, passed	<u>Opposed:</u> None <u>Absent:</u> M. Clark, S. Nowicki	The \$125,000 in one-time funding is not part of the FY17 budget. This will be added during the December FY17 supplemental budget.
4	Syrett	Allocate \$25,000 of the one-time allocation (MBWC) to the City of Eugene for the rest stop program.	N/A	N/A	N/A		13-0, passed	<u>Opposed:</u> None <u>Absent:</u> M. Clark, S. Nowicki	The \$25,000 in one-time funding is not part of the FY17 budget. This will be added during the December FY17 supplemental budget.
5	Beeson	Recommend the City Council review the City of Eugene General Fund allocation to Human Services Commission (HSC) for Ongoing Support funding in context of overall City of Eugene human services funding with the goal of increasing ongoing support funding to HSC to \$1.1 million by or before FY20.	N/A	N/A	N/A		13-0, passed	<u>Opposed:</u> None <u>Absent:</u> M. Clark, S. Nowicki	
6	Brown	Increase Whitebird/CAHOOTS funding \$225,000 on an ongoing basis to enable CAHOOTS vans to provide enhanced service.	\$0	\$225,000	\$225,000		13-0, passed	<u>Opposed:</u> None <u>Absent:</u> M. Clark, S. Nowicki	
7	Brown	The Budget Committee recommends the restoration of the position of Council stenographer for City Council and Civilian Review Board meetings. Pending Council approval of this recommendation, funding would be added to the December 2016 Supplemental Budget.	N/A	N/A	N/A		9-4, passed	<u>Opposed:</u> A. Zelenka, C. Clinton, G. Poling, J. Fetherstonhaugh <u>Absent:</u> M. Clark, S. Nowicki	
8	Syrett	Remove from the FY17 Proposed Budget the \$500,000 proposed for 2021 and place the funds in a designated reserve. Direct the City Manager to develop clear criteria to guide the use of the reserve fund being created in the FY17 budget.	\$0	(\$500,000)	(\$500,000)	1X\$	12-1, passed	<u>Opposed:</u> B. Taylor <u>Absent:</u> M. Clark, S. Nowicki	

FY17 Budget Committee Motions

Attachment B

#	Source	Motion	FY17 Budget Changes			1X\$	Vote	Opposed and Abstain Votes; Absent Members	Notes
			Revenue Change	Expenditure Change	Net Amount				
9	Skov	Direct the City Manager to report to or convene the Budget Committee in fall (in advance of service profiles) regarding features of the new corporate software currently being selected in order to understand and explore opportunities that the software will provide for new and better oversight by the Budget Committee.	N/A	N/A	N/A		8-5, passed	<u>Opposed:</u> G. Brown, L. Illig, B. Taylor, G. Poling, J. Fetherstonhaugh <u>Absent:</u> M. Clark, S. Nowicki	
10	Illig	Move that the Budget Committee recommend to the Eugene City Council the FY16 Budget for the City of Eugene that consists of the City Manager's Proposed FY16 Budget, including the property tax levies and/or rates contained therein, amended to reflect appropriations for prior year encumbrances and prior year capital projects, and the budget amendments previously passed by the Budget Committee.	N/A	N/A	N/A		13-0, passed	<u>Opposed:</u> None <u>Absent:</u> M. Clark, S. Nowicki	
11	Illig	Move that the Budget Committee recommend to the Eugene City Council, acting as the Urban Renewal Agency Board of Directors, the FY17 Budget for the Eugene Urban Renewal Agency that consists of the City Manager's FY17 Proposed Budget, including the property tax levies and/or rates contained therein, amended to reflect appropriations for prior year encumbrances and prior year capital projects.	N/A	N/A	N/A		11-2, passed	<u>Opposed:</u> G. Brown, W. Shaver <u>Absent:</u> M. Clark, S. Nowicki	
Total Budget Committee Approved FY17 General Fund Ongoing Motions			\$0	\$540,000	\$540,000				
Total Budget Committee Approved FY17 General Fund One-Time Motions			\$0	(\$500,000)	(\$500,000)				

Exhibit A**FY17 Proposed Budget Changes**

The City of Eugene FY17 Proposed Budget was presented to the Budget Committee for consideration on May 11, 2016. Concurrent with the Budget Committee's review of the Proposed Budget document, the FY17 Proposed Budget was published on the City website and made available in hard copy format for public review.

The City of Eugene FY17 Proposed Budget was based on balancing ongoing revenues and expenditures in the City's General Fund. The Proposed Budget, as presented, included the following changes:

FY17 Proposed Budget Changes - General Fund

Main Subfund (Subfund 011)		
Proposed Ongoing Funding	FTE	Amount
Spay and Neuter Clinic Operations and Services (revenue-backed)	0.00	\$130,000
Downtown Portable Restrooms and Handwashing Stations	0.00	\$30,000
Municipal Court Judges' Salary Increase	0.00	\$20,760
Nuisance Abatement Contractual Services (revenue-backed)	0.00	\$20,000
Minimum Wage Impact (first year)	0.00	\$11,500
Police Auditor's Office Investigative Services	0.00	\$6,000
Total	0.00	\$218,260

Proposed Limited Duration Funding	FTE	Amount
2021 IAAF World Championships Funding (FY17)	0.00	\$500,000
Urban Reserves (FY17 and FY18)	0.00	\$300,000
Body Camera Matching Grant Funding (FY17)	0.00	\$250,000
Replacement of Recreation Program Software (FY17)	0.00	\$150,000
Community Justice Initiative (FY17)	0.00	\$100,000
Greenhill Contract Increase (FY17)	0.00	\$95,000
Police Auditor's Office Limited Duration Position (FY17)	0.00	\$49,407
Total	0.00	\$1,444,407

Cultural Services Subfund (Subfund 031)		
Proposed Ongoing Funding	FTE	Amount
Staffing Expansion (revenue-backed)	4.88	\$450,000
Total	4.88	\$450,000

FY17 Proposed Budget Changes - Other Funds

Library Local Option Levy Fund (Fund 111)	FTE	Amount
Library Levy Implementation	18.40	\$2,384,000
Telecom Registration/Licensing Fund (Fund 135)		
Website Annual Maintenance and Licensing Fees	0.00	\$53,000
Closed Captioning for City Council and Budget Committee Meetings	0.00	\$16,000
Construction and Rental Housing Fund (Fund 150)		
Project Contingency Funding (revenue-backed)	0.00	\$100,000
Code Compliance Officer	0.50	\$48,100
Communications and Engagement Specialist (partially funded by Fund 155)	0.40	\$39,800
Solid Waste and Recycling Fund (Fund 155)		
Communications and Engagement Specialist (partially funded by Fund 150)	0.10	\$9,900
Community Development Fund (Fund 170)		
Senior Program Coordinator	0.25	\$28,000
Systems Development Capital Projects Fund (Fund 330)		
Permit and Information Center Staffing (partially funded by Fund 530)	0.20	\$26,500
Municipal Airport Fund (Fund 510)		
Operational Duty Officer	1.00	\$104,900
Capital Equipment Replacement	0.00	\$175,000
Senior Program Coordinator	0.50	\$55,500
Parking Services Fund (Fund 520)		
Downtown Credit Card Parking Meters (revenue-backed)	0.00	\$186,000
Wastewater Utility Fund (Fund 530)		
Permit and Information Center Staffing (partially funded by Fund 330)	0.20	\$26,500
Risk and Benefits Fund (Fund 620)		
Emergency Management Analyst	1.00	\$87,600
Total	22.55	\$3,340,800

RESOLUTION NO. 5158

A RESOLUTION ELECTING TO RECEIVE STATE REVENUE SHARING FUNDS PURSUANT TO SECTION 221.770 OF OREGON REVISED STATUTES

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EUGENE, A Municipal Corporation of the State of Oregon, as follows:

Section 1. The City of Eugene, Oregon, for the fiscal year starting July 1, 2016, and ending June 30, 2017, elects to receive distribution of funds from State Revenue Sharing pursuant to Oregon Revised Statutes Section 221.770.

Section 2. The Finance Director of the City of Eugene is hereby requested to file a copy of this Resolution with the Department of Administrative Services of the State of Oregon as prescribed by Oregon Revised Statutes Section 221.770.

The foregoing Resolution adopted the 27th day of June, 2016.

City Recorder

RESOLUTION NO. 5159

**A RESOLUTION CERTIFYING THAT THE CITY OF EUGENE PROVIDES
THE MUNICIPAL SERVICES REQUIRED BY OREGON REVISED STATUTES
SECTION 221.760 IN ORDER TO RECEIVE STATE SHARED REVENUES**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EUGENE, A Municipal Corporation of the State of Oregon, as follows:

Section 1. The City of Eugene, Oregon, recognizes the desirability of assisting the State officer responsible for determining the eligibility of cities to receive State Shared Revenues under Oregon Revised Statutes Sections 323.455, 366.785 to 366.820, 471.805 and Section 44, Chapter 1 of Oregon Laws 2015.

Section 2. The City of Eugene, Oregon, declares its eligibility to receive such funds as a city located within a county having more than 100,000 inhabitants according to the most recent federal decennial census that provides four or more of the following municipal services, as required by Oregon Revised Statutes Subsection 221.760(1):

- (a) Police protection.
- (b) Fire protection.
- (c) Street construction, maintenance, and lighting.
- (d) Sanitary sewers.
- (e) Storm sewers.
- (f) Planning, zoning and subdivision control.

The foregoing Resolution adopted the 27th day of June, 2016.

City Recorder

Attachment E

RESOLUTION NO. 5160

**A RESOLUTION ADOPTING THE BUDGET, MAKING APPROPRIATIONS,
AND DETERMINING, LEVYING AND CATEGORIZING
THE ANNUAL AD VALOREM PROPERTY TAX LEVY
FOR THE CITY OF EUGENE FOR THE FISCAL YEAR
BEGINNING JULY 1, 2016, AND ENDING JUNE 30, 2017**

The City Council of the City of Eugene finds that Adopting the Budget and Making Appropriations is necessary under ORS 294.305 to 294.565.

NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EUGENE, A Municipal Corporation of the State of Oregon, as follows:

Section 1. That the budget for the City of Eugene, Oregon, for the fiscal year commencing July 1, 2016 and ending June 30, 2017, as set forth in attached Exhibit A is hereby adopted.

Section 2. That the City Council of the City of Eugene, Oregon makes appropriations for the purposes as set forth in attached Exhibit A.

Section 3. That a total levy in the amount of \$7.0058 per \$1,000 of Assessed Value be made against all taxable property within the City of Eugene in general, a Library Local Option Levy of \$2,700,000 and a Bonded Debt Levy of \$13,870,354 for the purpose of deriving funds necessary to carry on the different programs and to meet the expenses of the government of the City of Eugene for the fiscal year beginning July 1, 2016 and ending June 30, 2017; and to create and provide sinking funds and interest funds for the various outstanding bonds and obligations of the City.

Section 4. That the following allocation and categorization subject to the limits of section 11b, Article XI of the Oregon Constitution constitute the above levy:

	Subject to the General Government Limitation	Excluded from the Limitation
General Fund	\$7.0058 per \$1,000 of Assessed Value	\$0
Library Local Option Levy Fund	\$2,700,000	\$0
Bonded Debt Fund	\$0	\$13,870,354

Section 5. That the Finance Director of the City of Eugene is hereby requested to certify the levies as herein made and set forth to the County Assessor of Lane County, Oregon, and shall file with the Lane County Assessor and the Lane County Clerk a copy of the adopted budget for Fiscal Year 2016-2017, and such other documents as required by ORS 294.458.

Section 6. That the list of fund numbers and fund titles set forth in attached Exhibit B is hereby adopted, and any fund numbers and fund titles in conflict herewith are hereby repealed.

The foregoing Resolution adopted this 27th day of June, 2016.

City Recorder

Exhibit A

**City of Eugene
Expenditure Appropriations by Fund**

<u>General Fund</u>	<u>\$</u>
Department Operating	
Central Services	23,837,327
Fire and Emergency Medical Services	28,595,704
Library, Recreation and Cultural Services	28,980,020
Planning and Development	6,344,533
Police	51,252,004
Public Works	5,975,207
Total Department Operating	<u>144,984,795</u>
Non-Departmental	
Interfund Transfers	4,530,280
Special Payments	700,000
Contingency	32,000
Reserve*	12,193,023
Unappropriated Ending Fund Balance*	23,930,000
Total Non-Departmental	<u>41,385,303</u>
Total General Fund	<u><u>186,370,098</u></u>
<u>Special Assessment Management Fund</u>	
Department Operating	
Central Services	97,870
Total Department Operating	<u>97,870</u>
Non-Departmental	
Interfund Transfers	8,000
Special Payments	30,000
Reserve*	50,000
Balance Available*	1,130,505
Total Non-Departmental	<u>1,218,505</u>
Total Special Assessment Management Fund	<u><u>1,316,375</u></u>
<u>Library Local Option Levy Fund</u>	
Department Operating	
Library, Recreation and Cultural Services	2,384,000
Total Department Operating	<u>2,384,000</u>
Non-Departmental	
Reserve*	168,000
Total Non-Departmental	<u>168,000</u>
Total Library Local Option Levy Fund	<u><u>2,552,000</u></u>
<u>Road Fund</u>	
Department Operating	
Public Works	12,312,222
Total Department Operating	<u>12,312,222</u>
Non-Departmental	
Interfund Transfers	965,000
Balance Available*	2,096,415
Total Non-Departmental	<u>3,061,415</u>
Total Road Fund	<u><u>15,373,637</u></u>

<u>Public Safety Communications Fund</u>		\$
Department Operating		
Police		2,468,749
Total Department Operating		<u>2,468,749</u>
Non-Departmental		
Interfund Transfers		160,000
Reserve*		908,520
Balance Available*		831,835
Total Non-Departmental		<u>1,900,355</u>
Total Public Safety Communications Fund		<u>4,369,104</u>
<u>Telecommunications Registration/Licensing Fund</u>		
Department Operating		
Central Services		2,734,342
Total Department Operating		<u>2,734,342</u>
Non-Departmental		
Interfund Transfers		479,000
Reserve*		302,847
Balance Available*		3,163,089
Total Non-Departmental		<u>3,944,936</u>
Total Telecommunications Registration/Licensing Fund		<u>6,679,278</u>
<u>Construction and Rental Housing Fund</u>		
Department Operating		
Fire and Emergency Medical Services		306,904
Planning and Development		6,721,777
Public Works		449,877
Total Department Operating		<u>7,478,558</u>
Non-Departmental		
Interfund Transfers		884,000
Special Payments		800,000
Balance Available*		4,839,853
Total Non-Departmental		<u>6,523,853</u>
Total Construction and Rental Housing Fund		<u>14,002,411</u>
<u>Solid Waste and Recycling Fund</u>		
Department Operating		
Planning and Development		969,067
Total Department Operating		<u>969,067</u>
Non-Departmental		
Interfund Transfers		52,000
Balance Available*		591,811
Total Non-Departmental		<u>643,811</u>
Total Solid Waste and Recycling Fund		<u>1,612,878</u>

<u>Community Development Fund</u>		\$
Department Operating		
Planning and Development		3,776,835
Total Department Operating		<u>3,776,835</u>
Total Capital Projects		<u>1,336,143</u>
Non-Departmental		
Debt Service		365,379
Interfund Transfers		105,000
Special Payments		9,098,915
Reserve*		984,224
Total Non-Departmental		<u>10,553,518</u>
Total Community Development Fund		<u><u>15,666,496</u></u>
<u>Library, Parks and Recreation Fund</u>		
Department Operating		
Library, Recreation and Cultural Services		370,061
Total Department Operating		<u>370,061</u>
Total Capital Projects		<u>1,030,953</u>
Non-Departmental		
Special Payments		102,006
Reserve*		2,459,461
Balance Available*		640,199
Total Non-Departmental		<u>3,201,666</u>
Total Library, Parks and Recreation Fund		<u><u>4,602,680</u></u>
<u>General Obligation Debt Service Fund</u>		
Non-Departmental		
Debt Service		13,333,507
Total Non-Departmental		<u>13,333,507</u>
Total General Obligation Debt Service Fund		<u><u>13,333,507</u></u>
<u>Special Assessment Bond Debt Fund</u>		
Non-Departmental		
Debt Service		300,000
Interfund Transfers		10,000
Reserve*		58,521
Total Non-Departmental		<u>368,521</u>
Total Special Assessment Bond Debt Fund		<u><u>368,521</u></u>
<u>General Capital Projects Fund</u>		
Department Operating		
Library, Recreation and Cultural Services		20,000
Total Department Operating		<u>20,000</u>
Total Capital Projects		<u>26,300,541</u>
Non-Departmental		
Debt Service		50,000
Reserve*		26,560
Balance Available*		1,299,941
Total Non-Departmental		<u>1,376,501</u>
Total General Capital Projects Fund		<u><u>27,697,042</u></u>

<u>Systems Development Capital Projects Fund</u>		\$
Department Operating		
Planning and Development		91,129
Public Works		502,248
Total Department Operating		<u>593,377</u>
Total Capital Projects		<u>11,907,066</u>
Non-Departmental		
Interfund Transfers		41,000
Balance Available*		15,016,851
Total Non-Departmental		<u>15,057,851</u>
Total Systems Development Capital Projects Fund		<u><u>27,558,294</u></u>
<u>Transportation Capital Projects Fund</u>		
Total Capital Projects		<u>28,608,009</u>
Non-Departmental		
Debt Service		10,000
Balance Available*		1,442,872
Total Non-Departmental		<u>1,452,872</u>
Total Transportation Capital Projects Fund		<u><u>30,060,881</u></u>
<u>Special Assessments Capital Projects Fund</u>		
Non-Departmental		
Interfund Transfers		20,000
Balance Available*		1,111,696
Total Non-Departmental		<u>1,131,696</u>
Total Special Assessments Capital Projects Fund		<u><u>1,131,696</u></u>
<u>Municipal Airport Fund</u>		
Department Operating		
Fire and Emergency Medical Services		880,671
Police		576,555
Public Works		8,038,977
Total Department Operating		<u>9,496,203</u>
Total Capital Projects		<u>20,646,248</u>
Non-Departmental		
Interfund Transfers		603,000
Reserve*		1,387,902
Balance Available*		4,819,959
Total Non-Departmental		<u>6,810,861</u>
Total Municipal Airport Fund		<u><u>36,953,312</u></u>
<u>Parking Services Fund</u>		
Department Operating		
Central Services		407,673
Planning and Development		5,581,980
Public Works		84,443
Total Department Operating		<u>6,074,096</u>
Total Capital Projects		<u>50,000</u>
Non-Departmental		
Interfund Transfers		1,064,425
Balance Available*		906,667
Total Non-Departmental		<u>1,971,092</u>
Total Parking Services Fund		<u><u>8,095,188</u></u>

<u>Wastewater Utility Fund</u>		\$
Department Operating		
Public Works		28,151,830
Total Department Operating		<u>28,151,830</u>
Total Capital Projects		<u>5,491,684</u>
Non-Departmental		
Interfund Transfers		1,718,000
Special Payments		27,254,200
Balance Available*		603,693
Total Non-Departmental		<u>29,575,893</u>
Total Wastewater Utility Fund		<u><u>63,219,407</u></u>
<u>Stormwater Utility Fund</u>		
Department Operating		
Public Works		15,334,684
Total Department Operating		<u>15,334,684</u>
Total Capital Projects		<u>7,174,728</u>
Non-Departmental		
Interfund Transfers		1,154,000
Special Payments		15,000
Balance Available*		2,234,751
Total Non-Departmental		<u>3,403,751</u>
Total Stormwater Utility Fund		<u><u>25,913,163</u></u>
<u>Ambulance Transport Fund</u>		
Department Operating		
Fire and Emergency Medical Services		7,474,415
Total Department Operating		<u>7,474,415</u>
Non-Departmental		
Interfund Transfers		899,998
Balance Available*		884,664
Total Non-Departmental		<u>1,784,662</u>
Total Ambulance Transport Fund		<u><u>9,259,077</u></u>
<u>Fleet Services Fund</u>		
Department Operating		
Public Works		16,094,990
Total Department Operating		<u>16,094,990</u>
Non-Departmental		
Interfund Transfers		406,000
Reserve*		14,629,159
Balance Available*		448,034
Total Non-Departmental		<u>15,483,193</u>
Total Fleet Services Fund		<u><u>31,578,183</u></u>
<u>Information Systems and Services Fund</u>		
Department Operating		
Central Services		14,818,678
Total Department Operating		<u>14,818,678</u>
Non-Departmental		
Interfund Transfers		339,000
Reserve*		1,364,919
Balance Available*		1,728,198
Total Non-Departmental		<u>3,432,117</u>
Total Information Systems and Services Fund		<u><u>18,250,795</u></u>

<u>Facilities Services Fund</u>		\$
Department Operating		
Central Services		9,565,120
Planning and Development		582,246
Total Department Operating		<u>10,147,366</u>
Total Capital Projects		<u>690,294</u>
Non-Departmental		
Debt Service		212,000
Interfund Transfers		421,000
Reserve*		536,500
Balance Available*		2,175,929
Total Non-Departmental		<u>3,345,429</u>
Total Facilities Services Fund		<u><u>14,183,089</u></u>
<u>Risk and Benefits Fund</u>		
Department Operating		
Central Services		35,845,849
Total Department Operating		<u>35,845,849</u>
Non-Departmental		
Debt Service		6,364,500
Interfund Transfers		156,000
Reserve*		6,813,473
Balance Available*		4,328,404
Total Non-Departmental		<u>17,662,377</u>
Total Risk and Benefits Fund		<u><u>53,508,226</u></u>
<u>Professional Services Fund</u>		
Department Operating		
Public Works		6,297,219
Total Department Operating		<u>6,297,219</u>
Non-Departmental		
Interfund Transfers		888,000
Reserve*		1,576,066
Balance Available*		1,146,210
Total Non-Departmental		<u>3,610,276</u>
Total Professional Services Fund		<u><u>9,907,495</u></u>
 Total Resolution		 <u><u>623,562,833</u></u>

* Reserve, Balance Available, and Unappropriated Ending Fund Balance amounts are not appropriated for spending and are shown for informational purposes only.

Exhibit B**City of Eugene
Fund Names**

<u>Reporting Fund*</u>	<u>Managing Fund</u>	<u>Fund Title</u>
010	(011 - 041)	General Fund Reporting Fund
	011	General Fund Main Subfund
	031	Cultural Services Fund
	041	Equipment Replacement Fund
110	(114 - 117)	Special Assessment Management Reporting Fund
	114	Local Improvement Assistance Fund
	115	Assessment Management Fund
	117	City Sewer Deferral Fund
111	111	Library Local Option Levy Fund
131	131	Road Fund
130	(132 - 134)	Public Safety Communications Reporting Fund
	132	Public Safety Answering Point Fund
	134	Regional Radio System Fund
135	135	Telecommunications Registration/Licensing Fund
150	(151-152)	Construction and Rental Housing Reporting Fund
	151	Construction Permits Fund
	152	Rental Housing Program Fund
155	155	Solid Waste and Recycling Fund
170	(171 - 178)	Community Development Reporting Fund
	171	Community Development Block Grant Fund
	172	CDBG-108/Brownfields Economic Development Initiative Fund
	174	Historic Preservation Loan Fund
	175	Low Income Housing Fund
	176	Community Revitalization Loan Fund
	177	CDBG Loan Program Revolving Fund
	178	HOME Fund
180	(181 - 187)	Library, Parks and Recreation Reporting Fund
	181	Library Miscellaneous Trust Fund
	183	Art Loan Program Fund
	185	Parks and Recreation Miscellaneous Trust Fund
	186	Hayes Trust Fund
	187	Parks Maintenance Fund
211	211	General Obligation Debt Service Fund
250	(251 - 278)	Special Assessment Bond Debt Reporting Fund
	251	In-City Assessment Bond Reserve Fund
	277	Special Assessment Bonds, Series 2006 Fund
	278	Special Assessment Bonds, Series 2011 Fund
310	(311 - 324)	General Capital Projects Reporting Fund
	311	General Capital Projects Fund
	314	Housing Capital Projects Fund
	319	Public Art Fund
	321	Parks/Open Space Capital Project Fund
	323	City Hall Complex Fund
	324	2006 PROS Bond Projects Fund

* City of Eugene appropriates and reports to these combined funds.

**City of Eugene
Fund Names**

<u>Reporting Fund*</u>	<u>Managing Fund</u>	<u>Fund Title</u>
330	(332 - 336)	Systems Development Capital Projects Reporting Fund
	332	Systems Development Capital Administration Fund
	333	Transportation Systems Development Capital Projects Fund
	334	Wastewater Systems Development Capital Projects Fund
	335	Stormwater Systems Development Capital Projects Fund
	336	Parks Systems Development Capital Projects Fund
340	(341 - 344)	Transportation Capital Projects Reporting Fund
	341	Road General Capital Fund
	342	Pavement Preservation Program Fund
	344	2012 Street Bonds Fund
350	(351 - 352)	Special Assessments Capital Projects Reporting Fund
	351	Special Assessments Capital Fund
	352	Delayed Assessments Fund
510	(511 - 512)	Municipal Airport Reporting Fund
	511	Airport Fund
	512	Airport Construction Fund
520	(525 - 527)	Parking Services Reporting Fund
	525	On-Street Parking Fund
	527	Off-Street Parking Fund
530	(532 - 534)	Wastewater Utility Reporting Fund
	532	Wastewater Utility - Capital Fund
	533	Wastewater Utility - Treatment Fund
	534	Wastewater Utility - Collection Fund
539	(531, 535, 536)	Stormwater Utility Reporting Fund
	531	Stormwater Utility - Capital Fund
	535	Stormwater Utility - Operation Fund
	536	Wetlands Mitigation Bank Fund
592	592	Ambulance Transport Fund
600	(616, 619)	Fleet Services Reporting Fund
	616	Fleet Replacement and Acquisition Fund
	619	Fleet Operations Fund
610	(611 - 613)	Information Systems and Services Reporting Fund
	611	Information Systems and Services Fund
	612	Public Safety Information Systems Fund
	613	Central Business Software Fund
615	(617, 618, 635)	Facilities Services Reporting Fund
	617	Atrium Fund
	618	Facilities Maintenance Fund
	635	Facilities Professional Services Fund
620	(622 - 625)	Risk and Benefits Reporting Fund
	622	Risk Management Fund
	623	Employee Health and Benefits Fund
	624	Pension Bond Fund
	625	Other Post Employment Benefits (OPEB) Fund
630	(631, 632)	Professional Services Reporting Fund
	631	Professional Services Fund
	632	Parks and Open Space and Maintenance Professional Services Fund

* City of Eugene appropriates and reports to these combined funds.

EUGENE URBAN RENEWAL AGENCY

AGENDA ITEM SUMMARY



Public Hearing and Action: A Resolution of the Urban Renewal Agency
of the City of Eugene Adopting the Budget, Making Appropriations,
and Declaring the Amount of Tax to be Certified
for the Fiscal Year Beginning July 1, 2016 and Ending June 30, 2017

Meeting Date: June 27, 2016
Department: Central Services
www.eugene-or.gov

Agenda Item Number: 6
Staff Contact: Twylla Miller
Contact Telephone Number: 541-682-8417

ISSUE STATEMENT

This meeting is to conduct a public hearing and take action to adopt the Fiscal Year 2016-2017 (FY17) budget for the Urban Renewal Agency (URA) of the City of Eugene. Oregon Local Budget Law requires the URA Board of Directors to conduct a public hearing to receive testimony on the FY17 URA budget as recommended by the Budget Committee. ORS 294.456 requires the URA Board of Directors to pass a resolution adopting the budget, making appropriations, and declaring the amount of tax to be certified for the next fiscal year.

BACKGROUND

Financial and Resource Considerations

Financial and resource considerations are detailed in the FY17 URA Proposed Budget document, available at www.eugene-or.gov/budget, and in the Budget Committee meeting materials, which are available at www.eugene-or.gov/budgetcommittee.

Budget Committee Recommendation

The Budget Committee's final recommendation on the FY17 URA budget, approved on May 26, 2016, is as follows:

“Move that the Budget Committee recommend to the Eugene City Council, acting as the Urban Renewal Agency Board of Directors, the FY17 Budget for the Urban Renewal Agency of the City of Eugene that consists of the City Manager's FY17 Proposed Budget, including the property tax levies and/or rates contained therein, amended to reflect appropriations for prior year encumbrances and prior year capital projects.”

The only change to the FY17 Proposed Budget was to add the capital carryover. A summary of the Budget Committee changes to the FY17 URA Proposed Budget is provided in Attachment A.

Timing

Under Oregon Local Budget Law, the FY17 URA budget must be adopted by June 30, 2016, and a copy of the adopting resolution must be filed with the Lane County Assessor by July 15, 2016.

Other Background Information

The FY17 Proposed Budget document, Budget Committee meeting materials, and Budget Committee FY17 budget motions are available on the City's website at www.eugene-or.gov/budget.

RELATED CITY POLICIES

The FY17 URA budget was prepared following guidelines established in the Financial Management Goals and Policies.

URA BOARD OF DIRECTORS OPTIONS

After the public hearing on the FY17 URA budget as recommended by the Budget Committee has been held, the URA Board of Directors may make changes to the FY17 budget. The Board may reduce budgeted appropriations in any fund by any amount, as long as resources and requirements remain in balance. No additional process steps are required when appropriations are reduced by the Board.

Budgeted appropriations may also be increased by the Board. If the total appropriation increase in any of the reporting funds is less than \$5,000 or 10 percent of the fund's appropriations as recommended by the Budget Committee, whichever is greater, then no additional process steps are required. However, if the appropriations in any fund are increased by more than those limits, the URA Board of Directors must publish a revised budget notice and hold another public hearing before the adjusted budget can be adopted. Due to the timing requirements associated with the budget notice publication, the last option would effectively not be possible, assuming adoption of the FY17 budget by June 30, 2016.

If the URA Board of Directors decides to amend the FY17 budget resolution, the motion must contain specific appropriation line(s) being altered in the resolution, and each motion must be self-balancing, meaning that a resource and a requirement must exactly offset each other.

AGENCY DIRECTOR'S RECOMMENDATION

The Agency Director recommends adoption of the FY17 URA budget as recommended by the Budget Committee.

SUGGESTED MOTION

Move to approve Resolution 1079 of the Urban Renewal Agency of the City of Eugene adopting the budget, making appropriations and declaring the amount of tax to be certified for the fiscal year beginning July 1, 2016 and ending June 30, 2017.

ATTACHMENTS

- A. Summary of Changes to the FY17 URA Proposed Budget
- B. Resolution Adopting the FY17 Urban Renewal Agency Budget
 - Exhibit A: Fund Schedules
 - Exhibit B: Fund Names

FOR MORE INFORMATION

Staff Contact: Twylla Miller
Telephone: 541-682-8417
Staff E-Mail: Twylla.J.Miller@ci.eugene.or.us

OR

Staff Contact: Jamie Garner
Telephone: 541-682-5512
Staff E-Mail: Jamie.P.Garner@ci.eugene.or.us

**Summary of Changes to the Urban Renewal Agency
of the City of Eugene FY17 Proposed Budget**

Attachment A

Fund / Department	FY17 Proposed Budget	<----- Budget Committee Actions ----->				FY17 Adopted Budget
		Misc. Actions	Encumbrances Reserve/Carryover	Capital Carryover	Budget Comm. Recommend.	
A. <u>Downtown General Fund</u>						
Planning and Development	179,032				179,032	179,032
Special Payments	2,427,926				2,427,926	2,427,926
Balance Available	29,840				29,840	29,840
Total	\$ 2,636,798	-	-	-	\$ 2,636,798	\$ 2,636,798
B. <u>Downtown Debt Service Fund</u>						
Debt Service	1,348,000				1,348,000	1,348,000
Interfund Transfers	179,032				179,032	179,032
Balance Available	1,555,569				1,555,569	1,555,569
Total	\$ 3,082,601	-	-	-	\$ 3,082,601	\$ 3,082,601
C. <u>Downtown Capital Projects Fund</u>						
Capital Projects	-			515,972	515,972	515,972
Balance Available	27,466				27,466	27,466
Total	\$ 27,466	-	-	\$ 515,972	\$ 543,438	\$ 543,438
D. <u>Riverfront General Fund</u>						
Planning and Development	251,881				251,881	251,881
Balance Available	8,230,061				8,230,061	8,230,061
Total	\$ 8,481,942	-	-	-	\$ 8,481,942	\$ 8,481,942
E. <u>Riverfront Capital Projects Fund</u>						
Capital Projects	-			324,118	324,118	324,118
Balance Available	407,746				407,746	407,746
Total	\$ 407,746	-	-	\$ 324,118	\$ 731,864	\$ 731,864
F. <u>Riverfront Program Revenue Fund</u>						
Special Payments	1,000,000				1,000,000	1,000,000
Reserve	2,005,000				2,005,000	2,005,000
Total	\$ 3,005,000	-	-	-	\$ 3,005,000	\$ 3,005,000
TOTAL URBAN RENEWAL AGENCY BUDGET	\$ 17,641,553	-	-	\$ 840,090	\$ 18,481,643	\$ 18,481,643

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RESOLUTION NO. 1079

**A RESOLUTION OF THE URBAN RENEWAL AGENCY OF THE CITY OF EUGENE
ADOPTING THE BUDGET, MAKING APPROPRIATIONS,
AND DECLARING THE AMOUNT OF TAX TO BE CERTIFIED
FOR THE FISCAL YEAR BEGINNING JULY 1, 2016 AND ENDING JUNE 30, 2017**

The Urban Renewal Agency of the City of Eugene finds that adopting the budget and making appropriations is necessary under ORS 294.305 to ORS 294.565.

NOW, THEREFORE,

BE IT RESOLVED by the Urban Renewal Agency of the City of Eugene, as follows:

Section 1. The budget for the Urban Renewal Agency of the City of Eugene for the Fiscal Year beginning July 1, 2016 and ending June 30, 2017, set forth in attached Exhibit A is hereby adopted.

Section 2. The amounts for the Fiscal Year beginning July 1, 2016 and ending June 30, 2017, and for the purposes shown in the attached Exhibit A are hereby appropriated.

Section 3. That the following be certified to the County Assessor of Lane County, Oregon:

The Downtown Plan Area shall receive the maximum amount of revenue that may be raised by dividing the taxes under section 1c, Article IX, of the Oregon Constitution. This plan shall be certified under Part 4, Other Reduced Rate Plans.

The Riverfront Plan Area shall receive the maximum amount of revenue that may be raised by dividing the taxes under section 1c, Article IX, of the Oregon Constitution. This plan shall be certified under Part 3, Other Standard Rate Plans.

Section 4. That the City of Eugene Finance Director is hereby requested to certify the levies as herein made and set forth to the County Assessor of Lane County, Oregon, and shall file with the Lane County Assessor and the Lane County Clerk a copy of the adopted budget for fiscal year 2016-2017, and such other documents as required by ORS 294.458.

Section 5. The list of fund numbers and fund titles set forth in attached Exhibit B is hereby adopted, and any fund numbers or fund titles in conflict herewith are hereby repealed.

The foregoing Resolution adopted this 27th day of June, 2016.

City Recorder

Exhibit A

**Urban Renewal Agency of the City of Eugene
Expenditure Appropriations by Fund**

<u>Downtown General Fund</u>	\$
Department Operating	
Planning and Development	179,032
Total Department Operating	<u>179,032</u>
Non-Departmental	
Special Payments	2,427,926
Balance Available*	29,840
Total Non-Departmental	<u>2,457,766</u>
Total Downtown General Fund	<u><u>2,636,798</u></u>
<u>Downtown Debt Service Fund</u>	
Non-Departmental	
Debt Service	1,348,000
Interfund Transfers	179,032
Balance Available*	1,555,569
Total Non-Departmental	<u>3,082,601</u>
Total Downtown Debt Service Fund	<u><u>3,082,601</u></u>
<u>Downtown Capital Projects Fund</u>	
Total Capital Projects	<u>515,972</u>
Non-Departmental	
Balance Available*	27,466
Total Non-Departmental	<u>27,466</u>
Total Downtown Capital Projects Fund	<u><u>543,438</u></u>
<u>Riverfront General Fund</u>	
Department Operating	
Planning and Development	251,881
Total Department Operating	<u>251,881</u>
Non-Departmental	
Balance Available*	8,230,061
Total Non-Departmental	<u>8,230,061</u>
Total Riverfront General Fund	<u><u>8,481,942</u></u>

<u>Riverfront Capital Projects Fund</u>	
Total Capital Projects	<u>324,118</u>
Non-Departmental	
Balance Available*	<u>407,746</u>
Total Non-Departmental	<u>407,746</u>
Total Riverfront Capital Projects Fund	<u><u>731,864</u></u>
<u>Riverfront Program Revenue Fund</u>	
Non-Departmental	
Reserve*	2,005,000
Special Payments	<u>1,000,000</u>
Total Non-Departmental	<u>3,005,000</u>
Total Riverfront Program Revenue Fund	<u><u>3,005,000</u></u>
Total Resolution	<u><u>18,481,643</u></u>

* Reserve and Balance Available amounts are not appropriated for spending and are shown for informational purposes only.

Exhibit B**Urban Renewal Agency
Fund Names**

<u>Reporting Fund</u>	<u>Managing Fund</u>	<u>Fund Title</u>
817	817	Downtown General Fund
812	812	Downtown Debt Service Fund
813	813	Downtown Capital Projects Fund
821	821	Riverfront General Fund
823	823	Riverfront Capital Projects Fund
824	824	Riverfront Program Revenue Fund

